





Class JK 274

Book G 85

Copyright N<sup>o</sup> 1923

**COPYRIGHT DEPOSIT.**







# GOVERNMENT AND POLITICS IN THE UNITED STATES

A TEXTBOOK  
FOR SECONDARY SCHOOLS

BY  
WILLIAM BACKUS GUITTEAU, PH.D.  
*Director of Schools, Toledo, Ohio*

BRIEFER EDITION



BOSTON NEW YORK CHICAGO SAN FRANCISCO  
HOUGHTON MIFFLIN COMPANY  
*The Riverside Press Cambridge*

JK 274  
G85  
1923

COPYRIGHT, 1923

BY WILLIAM BACKUS GUITTEAU

Copyright, 1911, 1916, 1921 and 1922, by William Backus Guitteau

ALL RIGHTS RESERVED

FIFTH IMPRESSION, JANUARY, 1923

1.80



The Riverside Press  
CAMBRIDGE · MASSACHUSETTS  
PRINTED IN THE U.S.A.

JUL 13 '23

© Cl A752100

17.23

## PUBLISHERS' NOTE

THIS book is an abridgment of Dr. Guitteau's *Government and Politics in the United States*. It has been prepared in response to a demand for a somewhat briefer text in Government which will allow time for the collateral study of United States History. By omitting much of the historical and explanatory detail which his original book contains, Dr. Guitteau has here produced a text which will require about two fifths of a year's work. This is in accord with the recommendation of the Committee of Five of the American Historical Association. The longer form of the book, however, will be continued in print for the benefit of teachers who desire the fuller presentation.

This *Briefer Edition* is planned exactly to meet the usual recitation requirements. While sufficient illustrative material is provided to clarify the larger or more complicated topics, practically every paragraph in the book is intended to be made the subject of specific classroom questions by the teacher. It will give pupils a clear and definite understanding of the principles and practices of their local, state, and national governments; and it will also give them the maximum of information best calculated to make them good citizens.



# CONTENTS

## PART I

### LOCAL GOVERNMENTS

#### I. RURAL LOCAL GOVERNMENT . . . . . 1

1. Our Federal Plan of Government. 2. Relation of Local to State Governments. 3. Classification of Local Governments. 4. General Features of New England Towns. 5. Important Elements in Town Government. 6. The New England County. 7. The Southern County. 8. Minor Local Divisions in the South. 9. Township-County System of Local Government. 10. Origin of the Township in the West. 11. Differentiated Types of Township-County System. 12. The Town-Meeting in the Central States. 13. The Township Board and the Supervisor. 14. Other Township Officers. 15. The School District. 16. The County Board in the Central States. 17. The County's Judicial Officers. 18. Financial and other County Officers. 19. Local Government in the Western States.

#### II. THE GOVERNMENT OF CITIES . . . . . 15

20. Definition of City. 21. Origin of Cities. 22. Development of Cities. 23. Problems confronting our Cities. 24. Our Most Serious Municipal Problem. 25. Incorporation and Charters. 26. Two Important Types of City Government. 27. Three Departments Under the Council-Mayor System. 28. Organization of the Council. 29. The Council's Police Power. 30. Financial Powers of the Council. 31. Miscellaneous Powers of the Council. 32. Procedure in City Councils. 33. The Mayor. 34. Legislative Powers of the Mayor. 35. The Mayor's Administrative Powers. 36. Judicial Powers of the Mayor. 37. Administrative Officials. 38. The Commission Plan. 39. The City-Manager Plan. 40. Proposed Improvements in Municipal Government.

#### III. THE WORK DONE BY CITY GOVERNMENTS . . . . . 30

41. Control of Police Administration. 42. Protection from Fire. 43. Control of Public Health. 44. Public Education. 45. Public Recreation. 46. Charities and Poor Relief. 47. The City Street. 48. Street Cleaning and Sewerage Systems.



49. Water Supply. 50. Public Lighting. 51. Street Railways. 52. The Problem of Municipal Monopolies. 53. Arguments for Municipal Ownership. 54. Arguments against Municipal Ownership.

PART II

STATE GOVERNMENTS

IV. STATE CONSTITUTIONS . . . . . 40

55. Early State Constitutions. 56. Parts of the State Constitutions. 57. Bills of Rights. 58. Early State Legislatures. 59. The State Executive. 60. The Judiciary. 61. Checks and Balances. 62. Development of State Constitutions. 63. Enactment and Amendment of State Constitutions. 64. Amendment by Constitutional Convention. 65. Amendments proposed by Legislatures. 66. Amendment through the Initiative and Referendum. 67. Authority of State Constitutions.

V. THE STATE LEGISLATURE . . . . . 48

68. Composition of the Legislature. 69. The Members of the Legislature. 70. Organization and Procedure. 71. The Enactment of Laws. 72. The Governor's Veto. 73. Scope of State Legislative Power. 74. Limitations upon Powers of State Legislatures. 75. Non-Legislative Duties. 76. Direct Legislation.

VI. THE STATE EXECUTIVE . . . . . 57

77. Contrast between State and Federal Executives. 78. Election and Term of the Governor. 79. Qualifications and Salary. 80. Administrative Powers and Duties. 81. Political Duties. 82. State Governors under the Federal Constitution. 83. Other Principal Executive Officers. 84. The Lieutenant-Governor. 85. The Secretary of State. 86. State Auditor or Comptroller. 87. The State Treasurer. 88. The Attorney-General. 89. State Superintendent or Commissioner of Schools. 90. Appointive Officers of State Administration. 91. State Boards or Commissions. 92. Civil Service Reform.

VII. THE STATE JUDICIARY . . . . . 66

93. Our System of Law. 94. System of State Courts. 95. Inferior Courts. 96. Courts of General Original Jurisdiction. 97. Courts of Last Resort. 98. Special State Courts. 99. Choice of State Judges. 100. Tenure of State Judges. 101. Salary and Qualifications. 102. Subordinate Officers of Courts. 103. The



Protection of Rights. 104. Procedure in Civil Cases. 105. Adjudging Legislative Acts Unconstitutional. 106. Judicial Control of Executive Officials. 107. Relation of State to Federal Courts. 108. Interstate Judicial Relations.

## VIII. CRIME AND ITS PUNISHMENT . . . . . 77

109. Public Wrongs or Crimes. 110. First Steps in a Criminal Action. 111. Framing a Formal Accusation. 112. Arraignment and Trial. 113. The Punishment of Crime. 114. Places of Imprisonment. 115. The Treatment of Criminals. 116. The Prevention of Crime. 117. Treatment of Juvenile Offenders.

## IX. CONTROL OF ECONOMIC INTERESTS . . . . . 84

118. Economic Functions of Government. 119. Lands. 120. Forests, Game, and Fish. 121. Agriculture and Agricultural Interests. 122. Labor and Factory Laws. 123. Characteristics and Development of Corporations. 124. Organization and Control of Corporations. 125. Regulation of Banks, Insurance Companies, and Railroads. 126. Industrial Combinations. 127. Transportation — Roads and Bridges. 128. Canals and River Navigation. 129. Weights and Measures. 130. Trade-marks.

## X. PUBLIC EDUCATION . . . . . 96

131. Early and Modern Education. 132. State Control of Education. 133. Elementary or Common Schools. 134. Educational Progress. 135. High School or Secondary Education. 136. Colleges and Universities. 137. The State University. 138. Administration of Public Schools. 139. The District System. 140. The Township System. 141. City School Systems. 142. The County System. 143. State Administration of Schools. 144. Text Books. 145. Compulsory Education. 146. School Revenues. 147. Federal Aid to Public Education. 148. Educational Work of the Federal Government.

## XI. STATE FINANCE . . . . . 107

149. Expenditures of National, State, and Local Governments. 150. State and Local Expenditures. 151. Sources of State Revenue. 152. Classification of Taxes. 153. Assessment of General Property Tax. 154. Equalization. 155. Levy and Collection of Taxes. 156. Mortgage Taxes. 157. Inheritance Taxes. 158. Corporation Tax. 159. Poll or Capitation Tax. 160. Income Taxes. 161. License Taxes. 162. Franchise Taxes. 163. Reforms in Taxation. 164. Borrowing Power of State Governments.

PART III

THE NATIONAL GOVERNMENT

XII. THE FORMATION OF THE CONSTITUTION . . . . . 119

165. The Constitutional Convention (1787). 166. Organization. 167. The Contest over Nationalism. 168. The Great Compromise. 169. The Three-Fifths Compromise. 170. Navigation Acts and the Slave Trade. 171. Other Compromises and Modifications. 172. Sources of the Constitution. 173. Completion of the Convention's Work. 174. The Contest over Ratification. 175. Inauguration of the New Government.

XIII. THE AMENDMENT AND DEVELOPMENT OF THE CONSTITUTION . . . . . 127

176. Modification of the Original Constitution. 177. Process of Constitutional Amendment. 178. The Bill of Rights. 179. The Eleventh Amendment. 180. The Twelfth Amendment. 181. Amendments since the Civil War. 182. Constitutional Changes through Interpretation. 183. The Doctrine of Implied Powers. 184. Chief Sources of Implied Powers. 185. Constitutional Changes through Usage. 186. Influence of Usage upon the Executive. 187. Usages affecting Congress. 188. Constitutional Modifications through the Party System.

XIV. RELATIONS OF FEDERAL AND STATE GOVERNMENTS . 136

189. The Federal System. 190. General Distribution of Powers. 191. Powers of the National Government. 192. Classification of Federal Powers. 193. Interpretation of Federal Powers. 194. Powers of State Governments. 195. Concurrent Powers. 196. Prohibitions upon the National Government. 197. Prohibitions upon State Governments. 198. Privileges of States in the Union. 199. Duties of the States in the Union. 200. Interstate Obligations. 201. Public Acts and Judicial Proceedings. 202. Interstate Extradition.

XV. THE SENATE . . . . . 146

203. Congress a Two-House Body. 204. Equal Representation of States. 205. Relations of the Two Houses. 206. Election of Senators. 207. The Senatorial Term. 208. Qualifications of Senators. 209. Rights and Privileges of Members. 210. The Senate's Powers in Legislation. 211. Executive Functions of the Senate. 212. Power to Approve Treaties. 213. Confirmation of Executive Appointments. 214. The Senate's Judicial Function.

**XVI. THE HOUSE OF REPRESENTATIVES . . . . . 154**

215. Composition of the House. 216. The Method of Apportionment. 217. Districting a State. 218. The Suffrage. 219. The Election of Representatives. 220. The Term of Representatives. 221. Qualifications for Representatives. 222. Rights, Privileges, and Disabilities of Members. 223. Special Powers of the House.

**XVII. CONGRESSIONAL METHODS . . . . . 161**

224. Term and Sessions of Congress. 225. Internal Organization of Congress. 226. The Quorum. 227. Presiding Officer of the Senate. 228. The Speaker of the House of Representatives. 229. Chief Sources of the Speaker's Power. 230. The Committee on Rules. 231. Congressional Committees. 232. The Process of Legislation. 233. Relations of Congress to the President. 234. Limitations on the Legislative Powers of Congress. 235. Classification of Congressional Powers.

**XVIII. ORGANIZATION OF THE FEDERAL EXECUTIVE . . . 174**

236. Method of electing the President. 237. Number and Choice of Electors. 238. Qualifications for Electors and Voters. 239. Time of Choosing Electors. 240. Meeting of the Electoral College. 241. Counting the Electoral Vote. 242. Election by the House of Representatives. 243. Changes in the Process of Election. 244. The Inaugural Ceremony. 245. Presidential Term, Salary, and Qualifications. 246. The Vice-President. 247. Election of Vice-President by the Senate. 248. Statutory Presidential Succession.

**XIX. THE PRESIDENT'S POWERS AND DUTIES . . . . . 183**

249. General Characteristics of the Federal Executive. 250. Classification of Executive Powers. 251. Military Powers of the President. 252. Position as Commander-in-Chief. 253. Duty to enforce the laws. 254. Protection of the United States. 255. Administrative Powers. 256. The Power of Appointment. 257. Officers appointed by Concurrent Action of President and Senate. 258. Appointment of Inferior Officers. 259. The Power of Removal. 260. Term of Federal Officers. 261. Civil Service Reform. 262. Diplomatic Powers. 263. Appointing and receiving Representatives. 264. The Power to make Treaties. 265. Legislative Powers. 266. Convening and adjourning Congress. 267. Power to recommend Legislation. 268. The Presidential Veto. 269. Judicial Powers.



**XX. THE EXECUTIVE DEPARTMENTS . . . . . 198**

270. The Federal Executive Departments. 271. The President's Cabinet. 272. The Department of State. 273. Department of the Treasury. 274. The Department of War. 275. The Department of Justice. 276. Post-Office Department. 277. Department of the Navy. 278. Department of the Interior. 279. The General Land Office. 280. The Department of Agriculture. 281. Department of Commerce. 282. Department of Labor. 283. Independent Boards and Commissions.

**XXI. THE FEDERAL JUDICIARY . . . . . 209**

284. The National Courts. 285. Federal Judges. 286. Jurisdiction of the Federal Courts. 287. Jurisdiction depending upon Character of Suit. 288. Jurisdiction depending upon Character of Parties. 289. The Federal Judicial System. 290. Federal District Courts. 291. Federal Circuit Courts of Appeals. 292. The Federal Supreme Court. 293. Special United States Courts. 294. Exercise of Federal Judicial Power. 295. The Law administered in the Federal Courts. 296. Declaring Legislative Acts Void.

**XXII. EXPENDITURE AND REVENUE . . . . . 219**

297. Growth of Federal Expenditures. 298. Expenditures resulting from the World War. 299. Control of Federal Expenditures. 300. Criticisms of Federal System of Finance. 301. Proposals for a National Budget System. 302. Sources of Federal Revenue. 303. Import Duties as a Source of Revenue. 304. General Characteristics of Excise Taxes. 305. Characteristics of Income Taxes. 306. Direct Taxes levied by the Federal Government. 307. Anticipatory or Extraordinary Revenues. 308. Bond Issues. 309. Short-time Loans. 310. The National Debt.

**XXIII. COINAGE AND CURRENCY . . . . . 231**

311. Origin and Functions of Money. 312. Monetary System of the United States. 313. History of Metallic Currency. 314. Currency Act of 1900. 315. Paper Currency. 316. First United States Bank. 317. Second United States Bank. 318. State Banks. 319. The National Banks. 320. The Independent Treasury System. 321. Government Paper Money. 322. Legal-Tender United States Notes. 323. Resumption of Specie Payments. 324. Recent Currency Legislation. 325. Advantages of the Federal Reserve System.

**XXIV. COMMERCIAL FUNCTIONS . . . . . 243**

326. Commerce under the Constitution. 327. Navigation. 328. River and Harbor Improvements. 329. Tariff Duties. 330. Im-

# CONTENTS

xi

migration. 331. General Characteristics of Immigration. 332. Social Effects of Immigration. 333. Control of Interstate Commerce. 334. Instruments of Interstate Commerce. 335. Railway Transportation. 336. Federal Railway Legislation. 337. Sherman Anti-Trust Act of 1890. 338. Recent Laws regulating Corporations.

## XXV. INTERNATIONAL RELATIONS . . . . . 256

339. International Law. 340. Federal Control of International Affairs. 341. Foreign Intercourse. 342. Diplomatic Representatives. 343. Duties and Privileges of Diplomatic Representatives. 344. Consular Officers and Agents. 345. Duties of Consuls.

## XXVI. TERRITORIAL FUNCTIONS . . . . . 262

346. Territorial Power under the Constitution. 347. Expansion of the National Area. 348. Early History of Northwest Territory. 349. Early Territorial Legislation. 350. Ordinance of 1787. 351. Later Territorial Legislation. 352. Territories and Possessions on the American Continent. 353. The Government of Alaska. 354. The Panama Canal Zone. 355. Representative Territorial Government. 356. The District of Columbia. 357. Other National Property. 358. Insular Territories or Dependencies. 359. Hawaii. 360. Porto Rico. 361. The Philippine Islands. 362. Admission of New States. 363. Position of States in the Union.

## XXVII. MILITARY POWERS . . . . . 275

364. War Powers of the Federal Government. 365. The Declaration of War. 366. Letters of Marque and Reprisal. 367. Captures on Land and Water. 368. Power to raise and support Armies. 369. Officers of the Army. 370. Education of Officers. 371. Militia. 372. The Navy. 373. Education of Officers. 374. Rules for the Government of Land and Naval Forces. 375. Military Pensions.

## XXVIII. MISCELLANEOUS POWERS . . . . . 285

376. Control of Naturalization. 377. Process of Naturalization. 378. Naturalization of Communities. 379. Effects of Naturalization. 380. Power over Bankruptcy. 381. Power over Copyrights. 382. Patents. 383. Weights and Measures. 384. Federal Power over Crimes. 385. Counterfeiting. 386. Piracy. 387. Offenses against the Law of Nations. 388. Treason.

XXIX. POLITICAL PARTIES . . . . . 293

389. Political Parties in our Government. 390. Functions of Parties. 391. Organization of Parties. 392. The Party Machine. 393. Party Responsibility.

XXX. NOMINATIONS AND ELECTIONS . . . . . 299

394. Methods of Nomination. 395. The Party Primary. 396. Types of Primaries. 397. Local Nominating Conventions. 398. Judicial and District Conventions. 399. State Nominating Conventions. 400. Presidential Nominating Systems. 401. The Call of National Conventions. 402. The Delegates. 403. Procedure in National Conventions. 404. The Nomination of Candidates. 405. Presidential Electors. 406. Direct Primary System. 407. Nomination by Petition. 408. Elections. 409. Qualifications for Voting. 410. Woman's Suffrage. 411. Election Districts and Registration. 412. The Conduct of Elections. 413. Casting and counting the Ballots.

APPENDIX

A. THE CONSTITUTION OF THE UNITED STATES . . . i

B. AREA, POPULATION, AND ELECTORAL VOTES OF THE STATES . . . . . xvii

C. AREA AND POPULATION OF TERRITORIES AND INSULAR POSSESSIONS . . . . . xviii

D. ILLUSTRATIVE MATERIAL FOR THE STUDY OF GOVERNMENT . . . . . xviii

E. SELECTED REFERENCES ON AMERICAN GOVERNMENT xx

INDEX . . . . . xxiii



# ILLUSTRATIONS

	FACING
Road-making . . . . .	10
Spokane County Courthouse, Spokane, Washington . . . .	11
Cumberland County Courthouse, Portland, Maine . . . .	11
The New City Hall at Chicago, Illinois . . . . .	20
A Typical New England Town Hall . . . . .	20
Boston Public Library . . . . .	21
The Schenley High School, Pittsburgh, Pa. . . . .	21
Boston City Hospital Relief Station . . . . .	32
A Tenement-House Section in New York City . . . . .	32
A Street-cleaning Squad at work . . . . .	33
An Automobile Fire-Engine of the Latest Type . . . . .	33
A View in Central Park, New York City . . . . .	36
William H. Seward Park, New York City . . . . .	36
A Public Bath for Boys, Boston . . . . .	37
Field House at South Park, Chicago . . . . .	37
The Colorado State Capitol, Denver . . . . .	44
The Massachusetts State House, Boston . . . . .	44
Carnegie Institute, Pittsburg . . . . .	45
The New York State Education Building at Albany . . . .	45
New York State Capitol at Albany . . . . .	52
Ohio State Capitol at Columbus . . . . .	52
Reduced Facsimile of a Legislative Bill . . . . .	53
Armory of the State Militia . . . . .	82
Police Protection during a Strike . . . . .	82
A Lock in the Sault Ste. Marie Ship Canal . . . . .	83
A Part of the Queensboro Bridge, New York . . . . .	83
Two Photographs illustrating Forestry . . . . .	86
Minnesota Agricultural Experiment Station . . . . .	87
The Dairy Car of the "Better Farming Special" . . . . .	87
Three Photographs illustrating the Centralization Plan of Schools . . . . .	100

Public School 165, New York City . . . . .	101
The Grover Cleveland School, Philadelphia . . . . .	101
The Capitol at Washington . . . . .	148
United States Senate Chamber . . . . .	149
United States Hall of Representatives . . . . .	149
The New Office Building of the United States Senate . . . . .	162
The Executive Offices . . . . .	162
The Form of a Federal Law . . . . .	163
The White House . . . . .	178
The State, War, and Navy Departments . . . . .	178
The Post-Office Department . . . . .	179
The Treasury Department . . . . .	179
A Presidential Proclamation . . . . .	192
An Early Attempt at Irrigation . . . . .	193
Present Methods of Irrigation . . . . .	193
The Library of Congress . . . . .	202
The Patent Office . . . . .	202
The Post-Office at New York City . . . . .	203
The Post-Office at Atlanta, Georgia . . . . .	203
Opening of the Panama Canal . . . . .	244
The Great Garland Canal on the Shoshone Project, Wyoming . . . . .	245
The Truckee River Irrigating Canal, Nevada . . . . .	245
United States Immigrant Station . . . . .	248
Registry Floor, Ellis Island Immigrant Station . . . . .	248
The Custom-House at New York City . . . . .	249
The Custom-House at Philadelphia . . . . .	249
The Governor's Palace at San Juan, Porto Rico . . . . .	258
International Bureau of the American Republics, at Wash- ington, D.C. . . . .	258
United States Battleship North Carolina . . . . .	259
The United States and its Possessions . . . . .	259
Voters waiting at the Polls . . . . .	308
Casting the Ballot . . . . .	308
A Voting Machine . . . . .	309

**GOVERNMENT AND POLITICS  
IN THE UNITED STATES**



# GOVERNMENT AND POLITICS IN THE UNITED STATES

## CHAPTER I

### RURAL LOCAL GOVERNMENT

**1. Our Federal Plan of Government.** The division of powers between the national and the State governments is one of the distinctive features of our political system. This division is established by the federal constitution, which enumerates the powers of the national government, all others being reserved to the States or to the people. Those interests which concern the United States as a whole, such as foreign relations, national finance, foreign and interstate commerce, are entrusted to the national government; while the individual States regulate those subjects which directly affect the citizen in his daily life, such as local government, education, property and contract rights, and criminal law.

A further distribution of powers exists within each commonwealth between the State government itself, and the various local governments (municipalities, school districts, townships, and counties). This division of powers is partly provided for in the State constitutions, but is chiefly a matter of legislative discretion. For this reason the powers of local governments are subject to frequent change, although generally local authorities are entrusted with the maintenance of public order and the immediate personal care of the people of each community (including such interests as schools, poor relief, street-paving and lighting, water supply).



**2. Relation of Local to State Governments.** In a country whose government is centralized, the national authority determines the form and attributes of the local governments; hence in Great Britain, France, and Italy, the system of local government is in large measure uniform in all parts of the country. On the contrary, under a federal government such as exists in the United States, regulation of local government is left to the individual States, each of which decides for itself what local areas and authorities shall exist within its borders. Hence diversity instead of uniformity characterizes local government in this country, the systems established by the various States agreeing on some points, but differing on many others.

In every commonwealth, local government is administered through certain local agencies created by the State legislature, by which body they may be regulated and changed. These local divisions have a dual character: they are (1) agencies of the State government, which entrusts them with the local administration of certain public or governmental functions; and (2) they are also organs designed to satisfy local needs and to regulate the internal affairs of particular districts.

**3. Classification of Local Governments.** Local governments may be classified into two groups: (1) rural governments, including the township and county (together with their various subdivisions — school districts, election and road districts); and (2) urban governments, including villages and cities.

Of rural local governments there are three leading types in the United States: (1) the town government of the six New England States; (2) the county or county-precinct type in the South, Southwest, and in the Far West; (3) the mixed or compromise type in the Middle, Central, and Northwestern States. These three types are a survival or reproduction of the three forms

Diversity of  
American  
local gov-  
ernments

Dual char-  
acter of local  
governments

Rural and  
urban

Types  
of rural  
government



of local government which prevailed in colonial America; and the variety of types springs from original differences in the character and economic environment of the early settlers.

**4. General Features of New England Towns.** Town government is New England's contribution to American local government. The town, it must be remembered, is a rural, not an urban community.<sup>1</sup> New England towns are generally irregular in form, with an area of from twenty to forty square miles. The population averages under 3000. The town is sometimes an agricultural, sometimes a manufacturing community; and not infrequently both industries are carried on, this diversity in industrial life often causing discord in town politics. Communal property rights — the striking feature of the early town's economic life — have been abandoned as unsuited to modern economic conditions; but the chief political characteristic of the ancient town — local self-government through a popular assembly — has been retained.

**5. Important Elements in Town Government.** The two most important elements in town government are the town-meeting and the board of selectmen. The town-meeting is an assembly of the qualified voters held regularly once a year, usually in the spring. Special meetings are called from time to time as occasion demands. The meeting is summoned by a warrant notifying the voters to meet at a certain time and place to transact the business specified in the warrant. Meetings are held in the town hall if there is one, otherwise in some church or schoolhouse. A moderator presides, and the town clerk acts as secretary.

The most important functions possessed by this body are (1) that of local legislation, and (2) of electing the town officials. As a legislative body the town-meeting has power to enact by-laws regulating local affairs, including local finance, schools, poor relief, highways, pub-

<sup>1</sup> But many towns are at least semi-urban, and others which may be classed as urban (with a population exceeding 8000) have retained their early form of town government instead of incorporating as villages or cities.

lic works and institutions, police, and sanitation. At each annual meeting, the town officers report in detail as to their administration of the town's affairs, and submit estimates of the funds needed for the ensuing year. The town-meeting then discusses the report, determines town policies for the following year, votes taxes for local purposes, and elects the town officers.

Of the town officers, the most important are the selectmen, an executive board of from three to nine members, **Town officers** generally chosen for a term of one year. This board is charged with the general supervision of town affairs under authority conferred by statute or by the town-meeting. Other officers are the clerk, who keeps the town records, issues marriage licenses, and registers vital statistics; the treasurer, collector of taxes, assessors, constables, school committee, highway officers, overseers of the poor, library and cemetery trustees, and many others.

In addition to their local duties, town officers act as agents of the State government for the assessment and collection of State taxes, enforcement of election and health laws, and other important services.

**6. The New England County.** In its origin the New England county was an aggregation of towns for judicial purposes; and although it has since acquired other functions, it is still primarily a judicial district in which civil and criminal courts are held, some by county, others by State judges. Of late years the county has gained ground as an administrative unit, although still occupying a subordinate position in local government.

In each county the people elect a sheriff, who is the principal executive officer attached to the court; also a **County officers** prosecuting attorney, clerk, treasurer, and a board of county commissioners, generally consisting of three members elected at large. The commissioners have charge of the county buildings (such as courthouses, jails, and in some States, poorhouses). They estimate the amount

of taxes needed to defray county expenses, and apportion this amount among the various towns and cities by which it is levied.<sup>1</sup> Only in this last respect does the county exercise control over the towns.

**7. The Southern County.** The Southern county was originally established as a judicial division in which courts were held, and as a financial district for the collection of State taxes. Other functions have been gradually acquired until to-day the Southern county has general charge of most local affairs, including schools, the maintenance of jails and poorhouses, and the construction and repair of bridges and highways.

General administrative authority over county affairs is vested either in a county court or in a small board of commissioners, members of which are chosen by the voters. Other county officers are the assessor, collector, auditor, treasurer, superintendent of education, overseers of roads, superintendent of the poor, clerk, recorder, surrogate; also county judges, a sheriff, coroner, and prosecuting attorney (the last-named officer sometimes acting for a judicial district including several counties). All of these officers are elected by popular vote, for terms varying from one to four years.

**8. Minor Local Divisions in the South.** Practically all the functions of local government are monopolized by the Southern county.<sup>2</sup> The smaller local divisions have very limited powers, and their officers are generally controlled by county authorities. Townships were established in Virginia, West Virginia, North Carolina, and Alabama by the reconstruction legislation following the Civil War; but they were soon afterwards entirely abolished, or reduced to precincts for the election of constables and justices of the peace. School districts exist in all of the Southern States, but possess slight powers of local taxation or administration.

<sup>1</sup> In New Hampshire and Connecticut the commissioners do not exercise the power of taxation or of making appropriations.

<sup>2</sup> In Louisiana the division corresponding to the county is called a parish.



9. **Township-County System of Local Government.** The westward movement of population in this country has been generally along parallels of latitude. Thus the **Westward migration** Southwest has been peopled largely by settlers from the Southern States, who carried with them the county system of local government; while men from New England and the Middle States emigrated to the Middle West and Northwest, and established there the township-county system of local government, also called the mixed or compromise system because it is a compromise between the local institutions of New England and those of the Middle States.

Under this plan the functions of local government are divided between county and township, both units coöperating in the work of administration. The county **Compromise plan of local government** is relatively less important than at the South, the township less important than in New England. This form of local government prevails throughout the great group of States extending from New York to Nebraska, which together contain more than half the entire population of the country. The township-county system is therefore the most representative type of local government in the United States.

10. **Origin of the Township in the West.** Township government in the Middle West dates from the Land Ordinance of 1785, providing for the survey and sale of the **Land ordinance of 1785** lands ceded to the federal government by the several States and by certain Indian tribes. In accordance with the plan of survey adopted, the public domain was divided into tracts six miles square, which were designated by the New England name of townships. For purposes of record and sale, each township was divided into thirty-six sections, each containing one square mile or 640 acres, the sections being subdivided into tracts of 160, 80, and 40 acres.

When a new State was formed out of this western terri-

tory, the county plan of local government was first adopted, since that form is cheaper and better suited to a scattered population. But since in each township land had been reserved for the public schools, it naturally followed that the township was made a body corporate and politic for school purposes, its inhabitants being authorized to elect school officers and maintain free schools. Since the schoolhouse in the center of the township affords a convenient place for the citizens to vote for State and national officers, the congressional township, already organized for school purposes, next becomes an election district. Then as the population increases and the volume of public business grows larger, the need is felt for a governmental area smaller than the county to look after such matters as the preservation of order, the building of highways, and the care of the poor; and so to the township is entrusted the election of constables, justices of the peace, superintendents of highways, and overseers of the poor. "In this way a vigorous township government tends to grow up about the schoolhouse as a nucleus, somewhat as in early New England it grew up about the church." <sup>1</sup>

Develop-  
ment of civil  
township

## II. Differentiated Types of Township-County System.

Two forms of this township-county government have developed, the difference in type being partly due to diversity in the original population. In the southern tier of the Central States, where the early settlers were largely from the Middle States and the South, the importance of the county has been emphasized; while in the northern tier, where New Englanders formed a larger element among the early inhabitants, the position of the township is more important. These two forms of the compromise plan of local government are sometimes called the county-precinct type and the township-county type, the former emphasizing the position of the county, the latter that of the township.

Origin of  
two types

<sup>1</sup> Fiske, John, *Civil Government in the United States*, p. 87.

The first of these types, in which the county is relatively more important, arose in Pennsylvania, and has since been adopted with modifications in Ohio, Indiana, Iowa, Kansas, and Missouri. In these States there is no town-meeting, nor are the townships represented on the county board. In general the position of the township is one of strict subordination to county authority.

The second type, where the township is more conspicuous, prevails in New York, New Jersey, Michigan, Illinois, Wisconsin, Nebraska, Minnesota, and the Dakotas. In all these States the town-meeting exists, while five of them — New York, New Jersey, Michigan, Illinois, and Wisconsin — follow the so-called New York plan whereby the townships are represented on the county board.

**12. The Town-Meeting in the Central States.** In the States which have the New York plan, a town-meeting is held, although its authority is less than in New England. In this meeting, all qualified voters of the township are entitled to participate. The annual town-meeting is generally held in March or April, special meetings being called by warrant as occasion requires. The most important business at the annual meeting is the election of township officers for the ensuing year. These officers are chosen by ballot, and generally consist of a supervisor, clerk, treasurer, assessor, and overseers of highways, all elected for one year; and two or more constables and justices of the peace, elected for terms varying from two to five years.

Besides its power to elect local officers, the town-meeting has important legislative powers. Numerous matters that are local in character, affecting only the township, are subject to the control of the people in town-meeting. They may make orders concerning the disposition of township property; authorize taxes for roads, bridges, schools, or other lawful purposes; vote to institute or defend



suits at law; receive the annual report of township officers charged with the disbursement of money, and direct these officers in the performance of their duties; and generally may enact such by-laws as are deemed conducive to the peace, welfare, and good order of the township.

13. **The Township Board and the Supervisor.** Under the Pennsylvania plan there is no town-meeting, and the position of the township is less important as compared with that of the county. But in general, the same township officers are chosen as under the New York plan, and the following description of township organization applies to both types.

In some States, general administrative authority over township affairs is vested in a board of trustees or supervisors, varying in number from three to eleven.<sup>1</sup> The powers of this board vary greatly, but its primary duty is to audit the accounts of the township officers, and pass upon all claims against the township. Other important duties are often performed, especially in States where there is no single head officer of the township.

In New England, general executive authority concerning township affairs is lodged in the selectmen. In a number of the Central States, similar authority is vested in a township board; while in others a double headship prevails, administrative authority being divided between the township board and a supervisor or trustee.<sup>2</sup> The supervisor or trustee has general charge of the township business. He receives and pays out all funds belonging to the township, makes an annual report upon financial affairs to the town-meeting, serves in some States as *ex officio* overseer of the poor, and has other clerical and executive duties.

<sup>1</sup> In New York, Michigan, Illinois, and Nebraska, this board consists of the supervisor, clerk, and the justices of the peace; in Pennsylvania, of two or more supervisors; in Ohio and Iowa, of three trustees; in Minnesota, Wisconsin, and the Dakotas, of three supervisors; in Indiana, of three freeholders specially elected for this purpose.

<sup>2</sup> This plan prevails in New York, Missouri, Kansas, Wisconsin, Michigan, Illinois, and Nebraska.

**14. Other Township Officers.** The clerk is custodian of the township's records, books, and papers, besides acting as  
 Clerk, secretary of the town-meeting, and as clerk of the  
 treasurer, township board. The treasurer has charge of the  
 and township funds, and frequently is also *ex officio*  
 assessor collector of taxes for State and county as well as township  
 purposes. Usually all taxes, State as well as local, are as-  
 sessed by the township assessor; and this officer is also  
 required in some commonwealths to take an annual census  
 of the inhabitants of his district, and to keep a record of  
 births and deaths. All these officers are elected by the voters  
 of the township.

Poor relief is for the most part a county function in the  
 Central States, although the townships commonly coöperate  
 in the work. Generally the township trustees act  
 Overseers of the poor *ex officio* as overseers, their duties being mainly  
 confined to granting temporary relief or deciding what per-  
 sons are entitled to admission to the county almshouse.

Overseers of the highways are generally elected or ap-  
 pointed from subdivisions of the county known as road  
 districts. These officers are charged with the  
 Overseers of highways maintenance of the highways, and are account-  
 able to the township or county board.

Each township elects from two to five justices of the  
 peace, and usually two constables. The justice is both a  
 conservator of the peace and a magistrate with  
 Justices of the peace and con- limited civil and criminal jurisdiction. The con-  
 stables stable is the local peace officer, and the minis-  
 terial officer of the justices' court.

**15. The School District.** School districts in the Central  
 States are local corporations distinct from the township;  
 but they generally correspond in area with the township or  
 else are subdivisions thereof. In about half of the Central  
 States, the voters in each school district hold meetings, sim-  
 ilar to the New England town-meetings, for the purpose of  
 electing school officers and levying taxes for school purposes.





### ROAD-MAKING

Two views of the same road at Johnson City, Tenn., showing its condition before and after macadamizing.



SPOKANE COUNTY COURTHOUSE, SPOKANE, WASHINGTON



*(By courtesy of Hugh C. Leighton Co., Portland, Me.)*

CUMBERLAND COUNTY COURTHOUSE, PORTLAND, MAINE



The officers or trustees in charge of district schools are generally three in number, elected for terms varying from one to four years. Where there are no school-meetings of the voters, these officers have full control; while in States having such meetings, the trustees carry out the policies adopted, and manage the details of school affairs.

**16. The County Board in the Central States.** The importance of the county, as we have seen, is greater in those States which have the county-township plan of Pennsylvania, less in those which have the New York plan. Under the Pennsylvania plan, general control over county affairs is vested in a board of three commissioners, elected by the voters of the county.<sup>1</sup> Under the New York plan, the larger county board is composed of the township supervisors.<sup>2</sup> The authority of the county board varies, being greater in those commonwealths having the Pennsylvania plan, and less in those where the New York system prevails. But in all the Central States it possesses considerable powers. The most important may be grouped under five heads.

(1) The erection and maintenance of public works, such as the courthouse, jail, and other county buildings, the construction of bridges, and some control over highways.

(2) Poor relief, including the issuing of warrants for expenses incurred by local overseers, employment of a county physician and a superintendent of the poor, and maintenance of a poor-farm.

(3) The administration of finance and taxation, including the audit of accounts of county officers, levy of county taxes, and equalization of township assessments.

(4) A limited degree of supervision over elective county officers, such as approval of their bonds and examination of their accounts.

(5) Certain duties in regard to elections, including the

<sup>1</sup> The commissioner plan prevails in Pennsylvania, Ohio, Delaware, Maryland, Indiana, Iowa, Minnesota, North Dakota, South Dakota, Kansas, and Nebraska.

<sup>2</sup> The supervisor plan prevails in New York, New Jersey, Michigan, Wisconsin, and throughout the greater part of Illinois.



establishment of polling-places, issuing of ballots, and canvass of election returns.

**17. The County's Judicial Officers.** In many States, each county elects a judge, often called a probate judge, who has original and exclusive jurisdiction in matters of probate, administration, and guardianship. Frequently the voters of the county elect judges for a court of general jurisdiction; but generally judges of these courts are chosen from districts which include several counties.

**County and county-chosen judges** The chief executive officer of the county court is the sheriff, who is also the general conservator of law and order within the county. In case of need, the sheriff has the right to call upon citizens to aid him in enforcing the law (that is, may summon the *posse comitatus*); or if the emergency warrants, he may ask the governor to send the State militia to the county. The sheriff is chosen by the voters, commonly for a term of two years.

The prosecuting attorney is the officer elected to conduct criminal prosecutions, also to represent the county in civil suits, and in general to act as its legal adviser. Another elective official is the coroner, who with the aid of a jury investigates the cause of mysterious or violent deaths.

**18. Financial and other County Officers.** The treasurer is custodian of the county funds, and generally *ex officio* collector of county and State taxes. The money thus collected is placed in different funds, as the general fund, school fund, and so forth. The treasurer is commonly elected by the voters. Two years is the usual term, and the State constitution frequently provides that no person shall serve for more than four years in succession.

The most important administrative officer is the county clerk, or auditor as he is known in some States. He is secretary of the county board and custodian of all records; and he acts as a check upon

**Treasurer**  
**County clerk or auditor**

the county treasurer, keeping an account of all receipts and expenditures, and countersigning warrants drawn upon the treasurer. In several commonwealths he also acts as clerk of the courts, while elsewhere a special officer is chosen for this duty.

Taxes are generally assessed by precinct or township officers and equalized by some county authority; but a county assessor is elected in a number of States.<sup>1</sup>

Other county officers are the recorder or register of deeds; the clerk of the district or circuit court; the county land surveyor; county boards of health; and (in some States) a county superintendent of schools, who is entrusted with the general oversight of the county school system.

19. Local Government in the Western States. In the States of the Far West as in the South, the county is the all-important unit of local government. Western county officers correspond in general to those of the Central States. The county boards usually consist of three commissioners, who have general administrative authority, including power to establish school and road districts.

Within the county's subdivisions — generally called precincts, one or more justices of the peace and constables are chosen by the voters. Owing to the sparse and scattered population throughout most of this region, these areas perform few functions as compared with the townships of the Central States.

## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. XXIX.  
 ——— *Readings in American Government and Politics* (1910), ch. XXIX.  
 Bryce, James, *The American Commonwealth* (1908), I, chs. XLVIII-XLIX.  
 Fairlie, John A., *Local Government in Counties, Towns, and Villages* (1906), chs. I-XVI.

<sup>1</sup> Including Missouri, Washington, California, Oregon, Nevada, Colorado, Wyoming, and the Dakotas.

Fiske, John, *Civil Government in the United States* (1904), chs. II-IV.

Hart, A. B., *Actual Government* (1903), ch. x.

Howard, G. E., *An Introduction to the Local Constitutional History of the United States* (1889).

Munro, William B., *The Government of the United States* (1920), pp. 546-571.

Porter, Kirk H., *County and Township Government in the United States* (1922).

### QUESTIONS AND EXERCISES

(Questions 1-7 are for pupils in all sections.)

1. Illustrate the dual character of local governments: (a) by giving examples of public or governmental services which they perform; (b) by citing examples of local affairs entrusted to their control. (Section 2.)
2. Which of the three systems of local government named in Section 3 prevails in your State?
3. How many counties are there in your State? Name the five counties having the largest population at the last census.
4. Visit your courthouse and other county buildings, note the uses to which they are put, and report upon any facts thus learned.
5. Prepare an outline showing all the functions performed (a) by your town or township; (b) by your county.
6. How many members compose your county board? How are they chosen, and for what term? Describe their powers.
7. Give the method of selection, term, and duties of each of your county officers.

(Questions 8-11 are for pupils living in New England.)

8. How many towns in your State? What is the population of the largest? Of the smallest?
9. Organize the class into a town-meeting, and discuss live local questions in accordance with articles in a warrant.
10. Describe the board of selectmen of your town, giving their names, term, and functions.
11. Give the same facts concerning the other executive officers of your town.

(Questions 12-15 are for pupils living in the Central and Western States.)

12. How many townships in your county? Name them.
13. Does the system of local government in your State belong to the county-precinct type, or to the township-county type? (Section 11.)
14. If there is a township board, give the number of members, term, and functions.
15. Give the names, term, and functions of other township officers.



## CHAPTER II

### THE GOVERNMENT OF CITIES

**20. Definition of City.** If we analyze our conception of the term city, we shall find that it includes at least three essential elements: (1) a considerable number of people, who (2) occupy a definite and compact territory, and (3) possess a local government organized with especial reference to their social and economic condition. Hence a city may be defined as “a populous community inhabiting a definite, compactly built locality, and having an organized public authority.”<sup>1</sup>

Like rural local governments, the city has a dual character, being an agent of the State government as well as an organ for the satisfaction of local needs. Thus in its public or governmental character the municipal corporation represents the State, which entrusts it with the performance in a particular locality of certain governmental functions — such as local taxation, the administration of justice and of the schools, the control of elections and of the public health, and the support of the poor. On the other hand, in its private or proprietary character the municipality is an organ for the satisfaction of local needs, such as the construction of sewers, paving, cleaning, and lighting of streets, supplying water, administration of parks, regulation of municipal transportation — matters which interest the commonwealth only indirectly, but which are of vital local concern.

Dual  
character  
of the city

**21. Origin of Cities.** Economic causes create cities and make urban life possible. So long as agriculture is the sole occupation of a people, cities cannot develop, since this industry necessitates a scattered population.

Economic  
basis

<sup>1</sup> Fairlie, John A., *Municipal Administration*, vii.



But with the creation of a surplus food-supply, men develop other and higher wants than the mere subsistence wants satisfied by agriculture. Division of labor then occurs, and commerce and manufactures arise — industries which tend to bring people together in compact communities. Thus the existence of cities is the result and sign of a separation of occupations. It is also an indication of economic progress. Countries in the forefront of modern civilization have a large urban population, while the contrary is true of more backward nations.

**22. Development of Cities.** Just as cities owe their origin to the economic fact of a surplus food supply, so to economic factors is due the great development of cities in modern times. Three of the most important are: (1) the industrial revolution, inaugurating the factory system of modern industry with its irresistible tendency to mass population in large centers; (2) extensive improvements in agriculture, displacing rural laborers, who seek employment in the cities; (3) a marvelous development of transportation which has made possible an unprecedented interchange of products.

**Urban population in the United States** In the United States the growth in urban population has been most striking. In 1790 about  $3\frac{1}{2}$  per cent of the people lived in cities; at the present time about 51 per cent. In 1790 there were six cities with over 8000 population; in 1920 there were 68 cities with a population of 100,000 or more. From 1790 to 1820, the total population of the United States increased from 3,929,214 to 105,710,620; the urban population from 131,472 to more than 54,000,000.

**23. Problems confronting our Cities.** Many serious problems have resulted from this wonderful growth of our cities. First, there is the question of providing school accommodations for the rapidly increasing number of city children. In our large industrial cities, the problem of education is rendered more difficult by the

**The educational problem**

arrival each year of thousands of illiterate immigrants, whose children must be transformed through the public school system into intelligent and loyal American citizens.

Then, especially in larger cities, there is a serious housing problem. In great centers of population like New York and Philadelphia, a thousand people sometimes dwell in a single city block, and there are hundreds of families each living in a single room. This congestion of population in the tenements invites disease, and is a constant menace to the health and morals of the entire city. Hence the question of regulating tenements, and indeed the whole problem of protecting the city's health, becomes a matter of vital public concern.

Tenements  
and the  
public  
health

Another difficult municipal question is that of transportation. Our rapidly growing cities require enlarged transportation facilities, in order that the thousands of toilers may be able to reach their work with the least possible loss of time.

Transportation

Other difficulties arise from the rapid growth of cities to a size not anticipated when the city was founded. The lack of adequate provision for parks and public squares, the failure to provide wide business streets and boulevards, and to reserve land for public buildings, often necessitates reconstructing certain portions of the city at an enormous public expense.

Rebuilding  
the city

24. **Our Most Serious Municipal Problem.** The solution of these, and many other municipal problems, is complicated by the fact that city residents are not acquainted with one another, as in the country. Even candidates for the ward offices are often unknown to the great majority of voters within the ward; and too often voters blindly cast a partisan ballot, regardless of the merits of the candidates. So numerous are the officials, and so complicated the question of responsibility for results, that voters cannot readily detect extravagance and mismanagement of the city's business. Hence,

Indifference  
of citizens  
concerning  
city gov-  
ernment

although our municipal governments spend more money in proportion to population than either the State or national governments, city residents often become indifferent concerning the management of public affairs. Frequently they permit professional politicians to run the government of the city to please themselves.

**25. Incorporation and Charters.** Like counties and townships, cities receive their right of self-government from the State. This is granted in the form of a charter, defining the city's rights and powers. On receiving its charter, the city is said to be incorporated; that is, it has become a municipal corporation.

Cities controlled by the State

Frequently the State legislature passes new laws changing the terms of this charter, often without regard to the wishes of the people of the city. This interference on the part of the State legislature tends to destroy local self-government, and is one of the chief obstacles to municipal progress. Hence a majority of the State constitutions now prohibit the legislature from passing laws which apply to a single city; in other words, all laws concerning cities must be general, and apply to all cities in the State.

State interference in city affairs

Several States<sup>1</sup> have gone still farther in endeavoring to assure self-government to their cities. These commonwealths permit cities to frame and amend their own charters, providing these are not inconsistent with the general laws of the State.

Home rule for cities

**26. Two Important Types of City Government.** There is great diversity in the organization of city governments in different parts of the United States, and even cities in the same State often have very different plans of government. But in general there are two distinct types of city government in the United States: (1) The council-mayor system, the plan which still

Council-mayor and commission plans

<sup>1</sup> Including California, Colorado, Michigan, Minnesota, Missouri, Ohio, Oregon, Oklahoma, and Washington.



prevails in a majority of our cities. (2) The commission plan, of more recent origin, which is rapidly growing in public favor (Sec. 38).

27. **Three Departments Under the Council-Mayor System.** Under this plan, the form of government in our cities is in general like that of the States and of the nation. There is a legislative department, the city council; an executive department, consisting of the mayor and the administrative officers; and a judicial department, comprising the municipal and police courts.

Legislative,  
executive,  
and judicial  
branches

28. **Organization of the Council.** In three fourths of the cities of the United States, the council is a single-chamber body. This is the prevailing type for the smaller cities as well as for a majority of the larger ones. Most of the latter have at one time or another tried the double-chamber council; but many have returned to the plan of a single chamber.

Number of  
chambers

Where the council consists of a single chamber, it is ordinarily composed of one member from each ward or district into which the city is divided; but in some cities councilmen are chosen by general ticket.<sup>1</sup> Where the double-chamber system prevails, the upper house or board of aldermen is often chosen at large, or from districts embracing several wards. The size of the council varies greatly, averaging from twenty to thirty members in the larger municipalities, and from five to fifteen in the smaller ones.

Election  
of members

The universal qualification for councilmen is, that they must be voters of the city in which they live; and generally they are required to be residents of the ward for which they are chosen. The negative qualification is often added that members shall not hold any other public office. The term varies from one to four years, two years being perhaps more general. Where the

Qualifica-  
tions, term,  
and salary

<sup>1</sup> That is, by the voters of the entire city.



term is two years, half the members are often chosen annually. Councilmen are usually unpaid in the smaller cities, but in many of the larger ones receive salaries ranging from \$300 to \$2000.

**29. The Council's Police Power.** The most important powers of municipal councils are those which may be classed under the head of the police power, by which is meant the power of government to enact such laws as are necessary to the health, comfort, and protection of society. The police power of the State government is a general power limited only by the restrictions of the State and the national constitution; and each commonwealth delegates to the cities within its borders a portion of this power — generally including the right to pass ordinances for the promotion of the public health, security, and comfort, and for the protection of the public morals.

**30. Financial Powers of the Council.** One of the most important powers granted to city councils is that of levying taxes to defray expenses incurred in the performance of municipal functions. The legislatures ordinarily confer this power subject to important limitations as to the purpose and rate of the tax. Thus the tax must be for a public purpose, and one which is authorized directly or impliedly by the terms of the municipal charter; and it is commonly provided that the rate shall not exceed a certain number of mills on each dollar of valuation of taxable property. The form of tax most largely relied upon for municipal revenues is the general property tax, the levy for city purposes being ordinarily collected along with the county and State taxes.

To defray the expense incurred in making certain local improvements, such as street-paving and sewer construction, it is customary to levy upon the abutting property owners special assessments upon the theory that they receive a special benefit from the improvement in question. Thus in most cities when a street is



*(By courtesy of the Noel Construction Company)*

THE CITY HALL AT CHICAGO, ILLINOIS



A TYPICAL NEW ENGLAND TOWN HALL

At Needham, Mass.





### BOSTON PUBLIC LIBRARY

There are 28 Branch Libraries and Reading Rooms. The Library gives free lecture courses with special regard to the æsthetic development of cities, and coöperates with the colleges in their University Extension Courses, and with the schools, loaning pictures, as well as books, to teachers for use in their work.



*(By courtesy of the Superintendent of Schools, Pittsburgh)*

### THE SCHENLEY HIGH SCHOOL, PITTSBURGH, PA.

opened, graded, or paved, the cost is borne mainly by the abutting property-owners (upon whose initiative such improvements are often undertaken).

Licenses of certain occupations and amusements constitute another important source of municipal revenue. A license may be either a police regulation to prevent some real or threatened evil, or it may be a tax upon certain lines of business.<sup>1</sup>

Municipal charters generally contain provisions authorizing the council to borrow money for public purposes, as for street-paving, or construction of waterworks and lighting-plants. When a city borrows money, municipal bonds are issued which are in effect the promissory notes of the corporation. These bonds are ordinarily in denominations of \$500 or \$1000, for a term varying from twenty to fifty years, at four to six per cent interest. They are sold to the highest bidder after due notice by publication.

**31. Miscellaneous Powers of the Council.** Eminent domain, or the right to take private property for public purposes, is a power commonly delegated by the legislature to municipal corporations. City councils generally have power to appropriate private property under the following conditions: (1) the property must be for a public use; (2) notice must be given to the owner; and (3) the property must be appraised in the manner prescribed by law, and the owner compensated for its appropriation.

Like private corporations, cities may purchase and hold property for municipal purposes. Cemeteries, waterworks, parks, markets, hospitals, libraries, gas and electric lighting-plants, are forms of property regarded by the courts as belonging to the municipality in its private or corporate rather than in its public or governmental capacity.

<sup>1</sup> In many cities, proprietors of theaters and other places of amusement, owners of vehicles, pawnbrokers, peddlers, and second-hand dealers are required to buy a license.



Municipal councils have implied powers to make such contracts as may be necessary to carry out the purposes for which the corporation was created, and these **Contractual powers** contracts may be for a longer term than the life of the council making the grant. The most important municipal contracts are franchises or grants of exclusive privileges to companies organized to furnish transportation, lighting, heat, and telephone service.

**32. Procedure in City Councils.** Regular meetings of the council are held at stated times, generally weekly or bi-weekly, special meetings being called from time to time as needed. Like other legislative bodies, **Meetings, rules, journal** municipal councils determine their own rules of procedure, and keep a journal of their proceedings. Generally they have power to compel members to attend and vote.

Like Congress and the State legislatures, city councils are commonly divided into committees to which proposed legislation is referred for consideration. Among the **Committee system** important committees are those on ways and means, streets and sidewalks, sewers, markets, printing, public lighting, transportation, rules and ordinances, and municipal bonds.

The legislation passed by the council ordinarily requires three separate readings, and unless the rules are suspended these must be at three different regular meetings. **Ordinances** Any member of the council may introduce a proposed ordinance, whereupon its title is read and the measure referred to the proper committee (this constituting the first reading). At a subsequent meeting, if the committee reports favorably, the second reading may take place, the ordinance being read in full or by title only; and at a third meeting, after being read the measure may be voted upon. If approved by a majority of the council, it is signed by the presiding officer, and unless the mayor has the veto power, it then becomes an ordinance or by-law binding upon all persons within the city. Frequently the municipal charter

gives the mayor power to disapprove any ordinance passed by the council; and a measure which is vetoed does not become effective unless the council again passes it by a two-thirds vote — in some cities by a three-fourths or four-fifths vote.

It is often required that ordinances be published in newspapers of general circulation within the municipality, several publications during consecutive weeks being commonly prescribed. To be valid, ordinances Validity of ordinances must be authorized by the municipal charter or by a State statute; and they must not conflict with any laws of a superior nature, such as a provision of the State constitution or statutes, or of the federal constitution, statutes, or treaties.

33. **The Mayor.** The chief executive officer of the city is the mayor, who is generally elected by popular vote. This officer is usually chosen for a two-year term in the larger cities, but in New England and in the smaller municipalities a one-year term is common. The mayor receives a salary which varies from a few hundred dollars in the smaller municipalities to \$15,000 in New York City. Election, term, salary

34. **Legislative Powers of the Mayor.** In the smaller municipalities and in a few of the larger ones, the mayor is the presiding officer of the council with a casting vote in case of a tie. But in a majority of the larger cities, he is not a member of the council and his relation to that body more nearly resembles that of the governor to the State legislature. He submits to the council annual and special messages recommending desirable legislation; and in most cases has a limited veto upon ordinances and resolutions passed by that body. Relation to council

In many recent charters, the mayor is given the power to veto particular items in an appropriation bill while approving the rest of the measure. Generally he has several days (varying in number from three to fourteen) for consideration

of legislation; and if he does not sign or veto the ordinance within that period it becomes effective without his signature.

**35. The Mayor's Administrative Powers.** Although in nearly all American cities the mayor is in theory the head of the administration, the extent of his actual control varies greatly. In early days his administrative powers were narrowly limited, and in many smaller cities he is still little more than a presiding officer of the council with a casting vote in case of a tie, or in some cases with a qualified veto upon legislation. In these cities the subordinate executive officers are generally elected by popular vote or appointed by the council. This system is virtually council government except as modified by the mayor's veto power.

In a second class of cities the mayor has considerable power over appointments, and generally nominates the heads of the administrative service subject to confirmation by the council. But he cannot exercise complete control over the administration, since these officers cannot be removed except for cause, and even then the concurrence of the council is generally necessary. Thus responsibility for the administration is divided between the mayor and the council so that neither can be held accountable; and this lack of responsibility has made possible much of the inefficiency and corruption of city governments.

Finally, in a third class of cities, especially the larger ones, recent charters have given the mayor the power to appoint, without the approval of any other authority, the heads of the executive departments; and also the right to remove them at his own discretion at any time during his term. This type of city government has been called the mayor system, since it makes this officer the actual and responsible head of the entire municipal administration.

In all cities the mayor exercises general supervisory powers over the municipal departments. The extent of this authority varies, being most important in those munici-



palities where the mayor has the power to appoint and to remove department heads. In nearly all cities he may at least investigate complaints against particular departments, make recommendations to the administrative heads, and inspect books and records. In cities having the board system of municipal administration, he is frequently an *ex officio* member of the various boards.

General  
supervisory  
powers

The mayor is the chief conservator of the peace for the city as is the sheriff for the county, and has similar powers with regard to quelling riots and calling upon the governor for the State militia.

A peace  
officer

**36. Judicial Powers of the Mayor.** In nearly all municipalities the mayor has the powers of a justice of the peace. In most of the larger cities the mayor's court, formerly an important institution, has fallen into disuse, the mayor's judicial powers having been transferred to the police judges and judges of the municipal courts. But in the smaller cities, and generally in Delaware, Iowa, and the Southern States, the mayor still exercises judicial powers.

Justice of  
the peace

**37. Administrative Officials.** Greater diversity prevails in the administrative machinery of American cities than in any other feature of municipal organization. Ordinarily the larger cities have departments of public works, police, fire, health, law, elections, education, libraries, parks, finance, and charities and corrections.

Diversity

For the selection of administrative officers, many plans are in use, including election by the council, appointment by the mayor with or without the council's confirmation, election by popular vote, and appointment by the State governor. Appointment by the mayor with ratification by the council is the common method, but several recent charters give him the exclusive power of appointment. The treasurer and the comptroller are generally elected by popular vote, as are often the police judge, city solicitor, tax assessors, members of boards of public works, and of boards of education. Appointment by the governor is exceptional,

Selection

but prevails in case of the police and health boards of some cities.

The term of administrative officials varies from one to six years, generally being longer in case of members of municipal boards. For subordinate administrative officials, permanence of tenure is secured through civil service in Des Moines, Chicago, Milwaukee, New Orleans, and all cities in Wisconsin, New York, Massachusetts, and Ohio. Elsewhere municipal offices are too often regarded as political spoils.

As a general rule municipal officers receive salaries, especially in the larger cities. Frequent exceptions to this rule are the members of school, library, and park boards. If members of a board receive no salary, they are expected to devote only a part of their time to official duties, the routine work of the department being performed by salaried officials.

**38. The Commission Plan.** Perhaps the most serious defect in the government of our cities is the absence of direct responsibility for the management of affairs. Executive and administrative functions are distributed among numerous boards and officials in such a way that it is almost impossible to locate responsibility. To correct this condition, many cities<sup>1</sup> have recently adopted the commission plan of government, which aims to secure definite responsibility by centralizing municipal powers in the hands of a few men. Thus the Galveston charter entrusts the entire city administration to five commissioners elected at large for a term of two years, one of whom is given the title of mayor-president. Each of the other four is placed at the head of one of the departments of muni-

<sup>1</sup> The commission form of government has now been adopted by over five hundred cities. Of the 202 cities with over 30,000 population, 80 are governed under this plan. The most important cities which have adopted the commission plan are: Birmingham, Ala.; Buffalo, N.Y.; Los Angeles and Oakland, Cal.; Springfield, Ill.; Des Moines, Ia.; Wichita and Kansas City, Kas.; Boston (in modified form) and Lynn, Mass.; St. Joseph, Mo.; Jersey City and Newark, N.J.; Oklahoma City, Okla.; Memphis, Tenn.; Seattle (in modified form), Tacoma, and Spokane, Wash.; New Orleans, La.; and St. Paul, Minn.



cial administration — namely, finance and revenue, water-works and sewerage, police and fire protection, streets and public property; while the mayor-president exercises a general coördinating influence over all four departments. The commission acting as a whole is empowered to pass municipal ordinances, vote appropriations, award contracts, and make important appointments (minor ones being made for each department by the commissioner in charge).

The commission system of government also prevails in Des Moines, Iowa, but with important restrictions designed to assure popular control. Thus the Des Moines plan provides for the initiative, referendum, and recall; establishes a merit system for city employees; and requires a popular referendum on all franchise grants.

The advantages claimed for the commission plan are: —

- (1) Definite location of responsibility resulting from the complete centralization of municipal powers.
- (2) Lessening of civic corruption.
- (3) Approximating the government of the city to that of a business corporation in which ample powers are generally entrusted to a small board of directors.
- (4) Greater promptness and efficiency in action owing to the small number of administrative officers.

Advantages  
and defects

Those opposed to the commission plan urge: — (1) It is undemocratic and un-American, virtually amounting to a receivership for the municipality in which it exists. (2) It narrows the educative work of local government by decreasing the participation of citizens in public affairs. (3) It increases the influence of party organizations by enabling them to concentrate their efforts upon the few elective commissioners. (4) It places the appropriating and spending power in the same hands. (5) The absence of a local council constitutes an incentive to State interference in municipal affairs.

39. **The City-Manager Plan.** A recent modification of the commission form of government is known as the “city-manager” plan. This provides for a small elective commis-



sion, but the commission does not itself exercise administrative powers. For the general management of the city's affairs, the commission appoints an expert administrator, or city manager. The city-manager plan aims to secure permanent, expert service for the city's administration, in the same way that a large corporation selects an expert and capable manager for its affairs. It abandons the unscientific plan of attempting to select executive experts by popular election for short terms. Sumter, South Carolina, was the pioneer city in adopting the new plan, which now prevails in about fifty cities. Dayton, Ohio, and Grand Rapids, Michigan, are two of the larger cities governed under this plan.

#### 40. Proposed Improvements in Municipal Government.

As the causes of the misgovernment of cities have become better understood, more definiteness has been given the plans of those seeking to improve conditions. The chief steps now proposed as a means to possible improvement may be summarized under the following heads: —

(1) The effectual prohibition of special municipal legislation, and the granting to cities of general rather than enumerated powers.

(2) Such a change in municipal organization as will give the mayor authority over, and responsibility for, the city's administration; together with an enlargement of the powers of the council by giving that body control of the legislative policy of the city in matters of local interest.

(3) A restriction of the spoils system in city politics through the adoption of some form of municipal civil service.<sup>1</sup>

(4) The separation of municipal from State and national elections. In many commonwealths, municipal elections are now held at a different time of year from other elections, in the hope that candidates for local

<sup>1</sup> Such as prevails in Philadelphia, Chicago, New Orleans, Grand Rapids, Los Angeles, and in all cities of New York, Massachusetts, Wisconsin, and Ohio.

offices may be chosen on account of individual fitness rather than from a partisan standpoint.

(5) The exercise of the utmost care in granting franchises to public service corporations, in order that the people of the city may receive an adequate compensation for the privileges granted. The referendum or <sup>Franchises</sup> popular vote on franchises eliminates a great source of municipal corruption by placing the ultimate decision concerning franchises in the hands of the people themselves.

### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. xxvii.  
 Bryce, James, *The American Commonwealth* (1908), I, ch. L.  
 Fairlie, John A., *Municipal Administration* (1901), chs. xvii-xx.  
 Goodnow, Frank J., *City Government in the United States* (1904), chs. iv-viii.  
 Munro, William B., *The Government of the United States* (1920), pp. 572-601.

### QUESTIONS AND EXERCISES

1. What economic causes have contributed to the growth of your city?
2. How may your city charter be amended?
3. Point out the dual character of your city government: (a) as an agent of the State for the performance of governmental functions; (b) as an organ for the satisfaction of local needs. (Section 20.)
4. Of how many members does your city council consist? Give the qualifications, term, and salary of members.
5. Are the members elected by wards or at large? What are the advantages of each method?
6. Describe the financial powers of your council under the following heads: (a) taxation, (b) appropriations, (c) borrowing power.
7. When does your council meet? Where? Visit a council meeting and write an account of it.
8. State the following facts concerning your mayor: how elected, term, qualifications, salary, how removed.
9. Has your mayor the veto power? If so, what vote is necessary to pass an ordinance over his veto?
10. What administrative officers does the mayor appoint? Can he remove these officers? Is the consent of the council necessary in either case?
11. What degree of control does your mayor exercise over the city administration? Which of the three types of mayors, described in Section 35, does he resemble?
12. Make a list of the various boards and commissions in your city government. How is each chosen? Number of members, terms, and duties?
13. What is your city tax rate? Compare with the rates for the last ten years, and prepare a chart showing fluctuations in rates, by years.
14. What is the gross debt of your city? Is there a sinking fund? What is the net debt? How is this debt to be paid?

## CHAPTER III

### THE WORK DONE BY CITY GOVERNMENTS

**41. Control of Police Administration.** Control of the police force in our cities is vested either in a single commissioner or in a police board. The single commissioner system prevails in most of the smaller municipalities of the United States, as well as in such large cities as New York, Chicago, Philadelphia, Boston, Detroit, Minneapolis, and Syracuse. The board system formerly prevailed in nearly all the large cities, and is still not uncommon.

**Commissioner and board systems** To aid in securing men who are qualified mentally and morally for their responsible office, the civil service principle is applied to the police force in many cities, including those of Wisconsin, Massachusetts, New York, and Ohio. Appointments are based upon the results of competitive examinations, and tenure of office is permanent, removal occurring only for specific cause and after a public hearing.

**Civil service** **42. Protection from Fire.** The nature of city building renders adequate protection from fire one of the most important municipal functions. There is considerable diversity in the organization and equipment of fire brigades. Cities under 10,000 still depend almost exclusively upon volunteer companies; those between 10,000 and 30,000 commonly have a small force of regular firemen with a large number of call men; while in cities of over 30,000 the entire force usually consists of regulars. Nearly all municipalities with over 30,000 inhabitants have steam fire-engines, the pumps of the waterworks furnishing the necessary pressure. In efficiency, equipment, and discipline, American fire



departments are far in advance of those of any other country.

43. **Control of Public Health.** To control those agencies which threaten the health of its citizens, nearly every municipality with over 10,000 population has a locally chosen board of health or health officer; while the larger cities have also a force of sanitary inspectors and assistants. The duties of the municipal health department are manifold, but may be classified under three general heads: (1) Precautionary or preventive measures, including regulation of the sale of food products (to prevent unwholesome food or adulterated milk from being offered in the market), regulation of offensive trades, control of the construction of buildings, of ventilation, of smoke consumption, drainage, plumbing, and special supervision over the removal of garbage and waste. (2) Control of cases of infectious disease, by requiring physicians to report all such cases to the health department, and by insisting upon isolation of dangerous cases in city hospitals, and the employment of scientific methods of disinfection. (3) Collection of vital statistics, or statistics of births, marriages, and deaths.

Municipal  
health  
departments

In the United States, as in all the principal countries, a central authority exercises a general supervision over local health officials. State boards of health have been established in forty-three States, with original authority in certain matters, as well as supervisory powers over local officials.

State boards  
of health

44. **Public Education.** The administration of public schools is a most important function of city government, and one for which a large portion of municipal revenue is expended. In practically all American cities, the central authority in control of schools is the board of education or school board. In some municipalities this board is regarded as one of the several departments of the municipal government; while in others the board of edu-

Board of  
education

cation is a public corporation, separate and distinct from the city corporation.

The size of the school board varies, the common number being five, seven, or nine. Popular election is the prevailing method of filling the position, although in some cities the members are chosen by the mayor or the council. Election is either by general or district ticket, that is, members are either chosen by the city at large or else from certain districts or wards. The term ranges from two to five years.

In nearly all cities the board of education purchases school sites, erects and maintains school buildings, and furnishes necessary supplies, sometimes even providing free text-books. Other important functions are the employment of a superintendent and teachers, adoption of courses of study, and selection of text-books.

Within recent years free public libraries, one of the most important aids to education, have had a wonderful development. Such libraries are now maintained in nearly all cities whose population exceeds 25,000, as well as in many smaller ones. Administration of municipal libraries is generally in charge of a board of trustees chosen by the mayor or council, or elected by the people.

**45. Public Recreation.** Generous provision for public parks is of especial importance in the large cities with their congested population; but the need of such areas is strongly felt in the smaller ones as well. At the present time most cities whose population exceeds 40,000 have provided a system of public parks, that is, have purchased and set aside tracts of land for public use and recreation. In some municipalities the parks are connected in a chain by means of boulevards or parkways. Provision is frequently made for outdoor sports and for well-equipped park gymnasiums; and botanical gardens and zoölogical museums are sometimes included.





BOSTON CITY HOSPITAL RELIEF STATION



*(By courtesy of the Tenement House Commission, New York)*

A TENEMENT HOUSE SECTION IN NEW YORK CITY





### A STREET-CLEANING SQUAD AT WORK

In New York, the force of laborers in the street-cleaning department is uniformed; the sweepers wearing white duck suits and helmets, — whence the nickname “white wings”; the men employed on the carts, brown; and the foremen and superintendents, gray. This force totals considerably over 5000. The total length of paved streets under their care is about 2000 miles, and the area in square yards over 30,000,000. The streets are swept and scraped for the most part by hand, although machines also are used, especially for flushing and sprinkling the roadways. The sidewalks are cared for by the owners of abutting property.



*Courtesy, Knox Automobile Company.*

### AN AUTOMOBILE FIRE-ENGINE OF THE LATEST TYPE

Within the last decade there has been a strong movement in favor of municipal playgrounds, which afford an important aid to the physical and moral development of city children. At the present time about two hundred American cities provide public playgrounds, many of which are equipped with apparatus for games and gymnastics under the charge of competent directors.

In most cities the management of public parks and playgrounds is under the control of a small board consisting of from three to five members, either elected by the voters or appointed by some municipal authority.

46. **Charities and Poor Relief.** In the New England States and in New Jersey, poor relief is a municipal function even in the smallest towns. Elsewhere it is a municipal function in a majority of the larger cities; while in the smaller ones (as in the rural districts generally), poor relief is chiefly a county function, although the cities often assist in the work. In the municipalities which carry on public charities, the authority in general charge is either a board of charities (generally unpaid), or a single salaried commissioner.

The chief methods of affording relief are (1) through admission to public almshouses and hospitals; (2) outdoor relief, especially in the form of medical assistance to the sick; (3) municipal grants to private charitable institutions; (4) the maintenance of public employment bureaus through which a systematic effort is made to secure employment for able-bodied persons out of work; (5) the regulation of tenements so as to minimize the evils of the congested residence districts of the large cities.

47. **The City Street.** The concentration of heavy traffic in municipalities makes the question of streets a most important problem. Then too the social importance of the city street can hardly be overestimated,



inasmuch as such municipal activities as waterworks, sewers, lighting and heating systems, and urban transportation are absolutely dependent upon the street for their operation. These conditions seem to justify the statement that "the control of the streets means the control of the city."

The street lines of those American cities which have been systematically laid out have ordinarily followed the rectangular plan, the streets crossing each other at right angles. In some cases this plan has been greatly improved by means of diagonal streets radiating from the center of the city, together with sub-radiations from local centers.<sup>1</sup> The principal materials used for street pavements are granite and wooden blocks, bricks, asphalt (sheet and blocks), macadam, and gravel. No single material is best in all respects, and ordinarily the choice will be determined on the basis of economy of construction and repair, durability being an important factor.

**48. Street Cleaning and Sewerage Systems.** In most cities with over 30,000 population, a considerable portion of the streets is swept at public expense, and a force of men is employed to remove garbage and other refuse. The primitive method of removing garbage was to dump it upon adjacent land or in a near-by stream. With the rapid increase in urban population, a more scientific disposal of waste became imperative, and many cities now employ garbage furnaces or cremators.

Modern sewerage systems date chiefly from the middle of the nineteenth century, and at present nearly all cities have underground sewers throughout a large part of their areas. The aim of modern systems is to remove sewage promptly, and dispose of it in such a manner as not to pollute the water, air, or soil.

<sup>1</sup> The best arranged city in America, if not in the world, is Washington, planned by a French engineer, L'Enfant, in 1791. The streets range from eighty to one hundred and sixty feet in width, and broad transverse avenues intersect the rectangular streets, forming 302 squares and circles comprising 407 acres of land.



49. **Water Supply.** No function is of more vital concern to the modern city than that of furnishing its inhabitants with an abundant supply of water free from the specific germs of disease, and fit in every way for domestic and industrial uses. With the concentration of population, the difficulty of obtaining an adequate water supply increases, and the danger of contamination becomes greater. The chief sources of supply are the great lakes of the St. Lawrence system, flowing rivers, lakes among mountains and hills, and artesian wells supplemented by storage reservoirs.

Importance

Water is supplied by the municipality in most of the large cities of the United States, as well as in many smaller ones. The expense of conducting the water department is not paid out of taxes, but from rates or charges levied against users of the water.

Municipal ownership

50. **Public Lighting.** In the United States gas-works and electric-lighting plants are generally owned and operated by private companies. Twenty-five cities own municipal gas-works as compared with nearly one thousand private plants; while about 800 cities own electric-lighting plants as compared with nearly 3000 plants under private ownership. Most of the municipal electric-lighting plants are in the central group of States, and generally these are found in the smaller municipalities; but a number of important cities including Chicago, Allegheny, Detroit, and Grand Rapids own their plants.

Municipal and private plants

51. **Street Railways.** Our first street railways were constructed about the middle of the nineteenth century; and the striking growth of urban population in the following decades has made the question of urban transportation one of increasing importance.

Early and recent franchises

From the first, the construction and operation of street railways has been in the hands of private companies under franchises granted by the city council. Early franchises were for long periods, commonly fifty to one hundred years,<sup>1</sup>

<sup>1</sup> In a number of cities perpetual franchises were granted.

and generally imposed no restrictions upon the company except that of paving the street surface between the tracks. Gradually cities came to realize that franchises have a monetary value, and that they should be granted only under conditions which will safeguard the interests of the public. Recent franchises are often limited to a term of twenty years, and provision is sometimes made for payment to the city either of a stated sum, or a certain percentage of the gross receipts. Other common franchise conditions establish a maximum fare (generally three to five cents), provide for universal transfers and improvements in the service, and reserve to the municipality the right to purchase the system.

**52. The Problem of Municipal Monopolies.** Writers on economics agree that in industries which are natural monopolies (waterworks, gas and electric lighting-plants, street-railway and telephone systems), permanent competition is impossible; but great diversity of opinion prevails as to the public policy that should be followed with reference to these undertakings. The following courses are open to the municipality in dealing with natural monopolies: —

(1) The city may authorize a private company to perform the service in question by granting a franchise without making any effort to safeguard public rights or to secure an adequate return for the privileges conferred — a common policy in the earlier period of municipal history.

(2) The municipality may grant franchises to private companies under conditions designed to protect the public interest. This is now the common plan for street-railway and telephone systems, and is often followed in the case of lighting-plants. The principles that should govern the granting of franchises have been summarized by an eminent writer <sup>1</sup> as follows: —

(a) Reservation to the municipality of power to determine the charges of public-service corporations.

<sup>1</sup> Rowe, L. S., *Problems of City Government*, p. 239.





A VIEW IN CENTRAL PARK, NEW YORK CITY

The park is over  $2\frac{1}{2}$  miles long, and over half a mile wide. It covers 843 acres, of which 185 are in lakes and reservoirs and 400 in forest, wherein over half a million trees and shrubs have been planted. There are 9 miles of roads,  $5\frac{1}{4}$  of bridge paths, and 31 of walks.



WILLIAM H. SEWARD PARK, NEW YORK CITY

The Girls' Playground. The park provides also grounds for the use of boys.





### A PUBLIC BATH FOR BOYS, BOSTON

On the bank may be seen a part of the park and playgrounds.



*(By courtesy of the Playground Association of America)*

### FIELD HOUSE AT SOUTH PARK, CHICAGO

In addition to playgrounds, out-door gymnasiums, and other recreation facilities, the Chicago parks provide indoor gymnasiums in which organized work is carried on through the winter. The Field Houses contain also assembly rooms and libraries.

(b) Public control of capitalization and public supervision of corporation accounting.

(c) Limitation of franchise terms to a period ranging from twenty-five to forty years.

(d) Compensation to the municipality exacted in the form of lower charges rather than large financial returns.

(e) At the expiration of the franchise, the plant at its appraised value to revert to the city.

(3) The city may reserve to itself the ownership of the plant, while authorizing private operation. For example, the waterworks of Denver are owned by the city but leased to a private company; and the same plan is followed in case of the Philadelphia gas-plant, and the New York and Boston subways.

(4) Municipal ownership and operation of local public utilities is urged by many as a remedy for the evils attendant upon our present franchise system.

**53. Arguments for Municipal Ownership.** The chief arguments in favor of municipal ownership are: —

(1) Public ownership eliminates one of the greatest evils in municipal government — the corruption of officials by private corporations desiring to secure franchises or other privileges. On this point Professor Ely says: "Our terrible corruption in cities dates from the rise of private corporations in control of natural monopolies, and when we abolish them we do away with the chief cause of corruption."

(2) Public ownership gives a fuller and more efficient service, securing the enlargement and extension of facilities as public needs may require. Private companies supply only those services which pay, public ownership those which are needed.

(3) Public ownership lowers rates to the community, since the public plant does not have to pay dividends on watered stock, or maintain a lobby or corruption fund, or buy out rival plants, or advertise or solicit business.

(4) Public ownership secures impartial treatment for all



consumers, eliminating secret rebates and other forms of discrimination.

(5) Better treatment of labor is claimed for public ownership, as well as the elimination of strikes and lockouts.

(6) Public ownership aids civil service reform, since it necessitates the merit system in municipal administration.

(7) The spirit of coöperation is promoted and civic interest encouraged, thereby fostering better citizenship.

(8) Public ownership tends to a diffusion of wealth, whereas private ownership of natural monopolies tends to concentrate wealth in the hands of a few.

54. **Arguments against Municipal Ownership.** The principal arguments against municipal ownership are as follows:

(1) The present corruption and inefficiency of our city governments would be greatly increased by enlarging the number of positions which would become the spoils of the successful political party.

(2) Public ownership is non-progressive, and would not expand facilities as rapidly as private ownership, which secures large investments of capital through the inducement of large financial returns. Compare in this respect the state-owned railroads of Europe with the private-owned roads of the United States.

(3) Public ownership would not lower rates, as public management is generally less efficient and economical than private management. The history of the Philadelphia gas-plant under municipal and under private operation is cited in proof of this claim.

(4) Public ownership would increase enormously the bonded indebtedness of the municipalities, since the private plants would have to be purchased or new municipal plants erected.

#### GENERAL REFERENCES

- Ashley, Roscoe L., *The American Federal State* (1903), secs. 497-515.  
Beard, C. A., *American Government and Politics* (1910), ch. xxviii.  
——— *Readings in American Government and Politics* (1910), ch. xxviii.



- Fairlie, John A., *Municipal Administration* (1901), chs. VIII-XII.  
Goodnow, F. J., *City Government in the United States* (1904), chs. IX-XIII.  
Maltbie, Milo Roy, *Municipal Functions* (1898).  
Munro, William B., *The Government of the United States* (1920), pp. 602-635.  
Rowe, L. S., *Problems of City Government* (1908), chs. X-XIV.  
Wilcox, Delos F., *The American City* (1904).  
Zueblin, Charles A., *A Decade of Civic Development* (1905).

## QUESTIONS AND EXERCISES

1. Describe the organization of the fire department in your city. Cost of police and fire protection in your city last year.
2. Is your municipal health department under the control of a board, or a single commissioner? Describe the duties and work of this department.
3. How many members on your board of education? Are they chosen from wards, districts, or at large? What are their terms? Their powers?
4. How many school buildings in your city? How are the teachers chosen? Does your board provide free text-books? Give arguments for and against this plan.
5. What was the cost of public education in your city last year? What per cent of the entire municipal revenues was expended for school purposes?
6. How many pupils were enrolled in your public schools last year? In the elementary department? In the high school? How many graduated from high school last year? What per cent of those who enter the first grade complete the high-school course? Why do so large a number of those who enter school fail to complete the course?
7. Does your city have a free public library? What authority controls it?
8. Describe your public park system, stating what authority is in control, and annual cost of maintenance. Name, locate, and give the areas of the principal parks. Are they well located and managed?
9. Does your city maintain public playgrounds for children?
10. How is poor relief administered in your community? What was the cost last year? In what way is poor relief given?
11. Is the cost of street paving paid out of the general fund, assessed upon property-owners, or is a combination of the two methods employed? Are your streets well paved? What materials are chiefly employed?
12. Is your water supply under municipal or private control? If the latter, name the authority in charge. How is the cost met?
13. Are your streets lighted by gas or by electricity? Is the plant under public or private control?
14. Give arguments for and against municipal ownership of waterworks, lighting-plants, street railways.
15. In awarding a street-railway franchise, should a city aim to secure a large financial return from the company, or should compensation to the community take the form of lower fares to passengers? Why?

## CHAPTER IV

### STATE CONSTITUTIONS

**55. Early State Constitutions.** New Hampshire, South Carolina, Virginia, and New Jersey adopted State constitutions before independence was declared; and by **Adoption** 1780 all the States except two had followed their example. The two exceptions were Connecticut and Rhode Island, whose ancient charters were so liberal that with slight changes they served for many years as State constitutions. Of these eleven early constitutions, only that of Massachusetts was submitted to popular vote for ratification, a practice now almost invariable; but the conventions and congresses which framed the others acted in a representative capacity.

The great significance of the Revolutionary constitutions lies in the fact that for the first time in history the people **Significance** had ordained written constitutions superior to and limiting the government, and alterable only by the people themselves. The leading features of these constitutions were undoubtedly suggested by the colonial charters, which were modified to meet the new conditions created by the Revolution.

**56. Parts of the State Constitutions.** The early State **Early con-** constitutions ordinarily consisted of two parts: **stitutions** first, the bill of rights, an enumeration of the civil and political rights of the individual; and second, an outline of the general framework of government, providing for executive, legislative, and judicial departments, and prescribing the qualifications for the suffrage.

In addition to the foregoing, modern constitutions commonly contain a large number of miscellaneous provisions

relating to finance, education, corporations, taxation, and public institutions. The method of constitutional amendment is also prescribed; and sometimes a schedule Modern con-  
stitutions is added, providing for the method of ratification, and for the transition from the previous constitution to the new one.

**57. Bills of Rights.** Seven of the original thirteen States inserted in their first constitutions a declaration of the fundamental rights of the individual, and their ex- Origin ample has since been generally followed. These declarations are the legitimate successors of such great English bills of rights as Magna Carta (1215), Petition of Right (1628), and the Bill of Rights (1688); and they also reaffirm the principles of the American declarations of rights as avowed by the Stamp Act Congress (1765), the first Continental Congress (1774), and finally the Declaration of Independence (1776).

The bill of rights commonly affirms the general principles of republican government, that all powers are inherent in the people and all free government formed by their Provisions authority; that elections shall be free and equal; and that the laws shall not be suspended except by the legislative assembly. Generally the fundamental rights of the individual are also asserted — that all men have certain inalienable rights, including those of enjoying and defending liberty, and acquiring and possessing property. Other important safeguards against oppression or injustice are often added, including guaranties of the right of free speech, trial by jury, the free exercise of religious worship, and the right peaceably to assemble and petition the government for redress of grievances.

**58. Early State Legislatures.** The legislature constituted the most prominent feature of the early State government, and its authority was unrestricted except Authority by the bill of rights. Notwithstanding this large power, the duties of the early legislature were few, since the



simple agricultural life of the eighteenth century involved few of the problems which confront the modern industrial State.

With the exception of Georgia and Pennsylvania, all legislatures consisted of two branches, a lower and an upper house, each designed to act as a check upon the other. Members of the lower house were everywhere chosen for a term of one year; while in a few commonwealths the members of the upper house were elected biennially.

**59. The State Executive.** Protracted contests with the royal governors had inspired the colonists with a profound distrust of executive power; and this feeling is reflected in numerous provisions of the early constitutions. The short term, the limited authority, and the ineligibility of the governor to succeed himself in office were intended to prevent any danger of executive tyranny. The governor had the military powers formerly exercised by his colonial predecessor, but in most States he could not veto a bill, or grant a pardon, or make appointments except to minor military and judicial offices. In several commonwealths the governor's power was further restricted by means of an executive council modeled partly after the British Privy Council and partly after the colonial executive council. In five States the governor was chosen by the people, in the others by the legislature.

**60. The Judiciary.** The judicial power was vested in courts whose judges were either appointed by the executive or elected by the legislature. Good behavior was the judicial term originally adopted by a majority of the States. Of the three departments of government the judiciary was least affected by the Revolution. The principal change was the separation of legislative and judicial functions, the legislatures being deprived of any judicial powers formerly exercised. Another reform consisted in defining more accurately the jurisdiction of the various courts.

**61. Checks and Balances.** The governmental checks and balances which formed a prominent feature of the early constitutions have been retained and elaborated in more recent ones. The most important of these **Separation of powers** is the separation of the executive, legislative, and judicial powers<sup>1</sup> by the creation of distinct departments for the exercise of each power. Upon legislative action there is now (although not in early constitutions) the check of the executive veto; upon the executive and judiciary the legislature has a restraint through the power of impeachment; and finally, the judiciary constitutes a check upon both legislature and executive, since it may declare legislation unconstitutional, and may restrain executive agents from acts in excess of their authority.

The second great principle included under the term "checks and balances" is that of division of powers between the State and federal government on the one **Division of powers** hand, and between the State and local governments on the other. Through this division each government is entrusted with those functions which it is best adapted to perform, and encroachment by one authority upon another is prevented by written constitutions defining the powers of each government.

**62. Development of State Constitutions.** Within recent years, three important characteristics mark the development of State constitutions. First, the tendency to strengthen the executive department. The **Executive authority increased** term of the governor has been lengthened, and in every State except North Carolina, he now has a limited veto upon legislation. Recent constitutions generally give the governor larger powers of appointment, and more control over the business of administration.

<sup>1</sup> The first elaborate discussion of the principle of separation of governmental powers was that of the great French publicist, Montesquieu, whose work *L'Esprit des Loix* (The Spirit of the Laws), was published in 1748. Montesquieu wrote of the British government where separation of powers had ceased to exist in fact, Parliament having become the all-powerful element of the British government.

The second characteristic is the placing of important limitations upon the power of the legislature. The limitations most commonly found are those upon special legislation, concerning internal improvements, restricting the amount of indebtedness which may be incurred during any one year, and limiting the length of the legislative session.

Legislative  
power  
restricted

A third characteristic is the enlarging of the field of administrative activity. The agricultural State of the eighteenth century has been succeeded by the modern industrial State, and the field of governmental activity has broadened accordingly.

Admin-  
istrative  
activity

Hence recent constitutions include numerous provisions concerning the public schools, charitable and reformatory institutions, regulating the hours of labor and conditions in factories and workshops, protecting the public health, suppressing lotteries and gambling, regulating corporations, and providing for the government of municipalities.

**63. Enactment and Amendment of State Constitutions.** Many of the Revolutionary constitutions were drawn up by conventions or congresses which constituted the temporary form of government; and Massachusetts alone (in 1780) adopted the method of procedure since commonly observed of electing delegates to a convention for the express purpose of framing a constitution, and afterwards submitting the instrument thus drafted to the people for approval.

Early  
procedure

The States which have been admitted to the Union since 1789 have entered it as organized self-governing communities, with constitutions already formed. When Congress decides to admit a territory to statehood, it may pass an act empowering its people to hold a convention and enact a constitution; or Congress may accept and confirm a constitution previously drawn up by a territorial convention.

Admission  
of new  
States

Three different methods have been evolved whereby





THE COLORADO STATE CAPITOL, DENVER



THE MASSACHUSETTS STATE HOUSE, BOSTON





CARNEGIE INSTITUTE, PITTSBURGH

These buildings, presented to the city by Andrew Carnegie, contain a public library, a museum of natural history, an art gallery, and a concert hall.



THE NEW YORK STATE EDUCATION BUILDING AT ALBANY

This edifice houses the State Library, and contains the administrative offices of the Department of Education, the State Museum, and an auditorium seating one thousand persons.

State constitutions may be amended. (1) About two thirds of the States provide for amendment by a constitutional convention composed of delegates elected by the voters. (2) Another general method of amendment, found in all States except New Hampshire, is through legislative action subsequently ratified by popular vote. (3) Within the last decade several commonwealths have adopted a method of amendment entirely independent of the legislature, through the popular initiative and referendum.

**64. Amendment by Constitutional Convention.** The convention method is universally employed when it is desired to adopt a new constitution to replace the existing one. Sometimes the State constitution itself provides for such conventions at regular intervals; and in seven commonwealths, the constitutions require a periodical vote of the people (once in seven, ten, sixteen, or twenty years) upon the question whether a convention shall be called. Elsewhere the initiative is left to the legislature, which may declare by vote or resolution in favor of a convention. After notice by publication, a vote of the people is taken on the question of calling a convention, and the legislature then acts in accordance with the result of the popular vote. If the majority has been favorable, the legislature arranges for the election of delegates to the convention, ordinarily from districts throughout the State; and also fixes the time and place for the convention sessions. After the convention has completed its work, the common practice is to submit the new constitution to the voters for their approval or disapproval.

**65. Amendments proposed by Legislatures.** Frequently, separate constitutional amendments are adopted which do not involve revision of the entire instrument. These are usually proposed by the legislature and then submitted to popular vote. In some States only a majority vote of the legislature is required for the proposal of amendments, but generally a special majority

Methods of  
amendment

Proposal  
and  
ratification



in each house is required, as two thirds or three fourths of the members. In several commonwealths amendments cannot be considered until they have been proposed by two successive legislatures. After the amendment is proposed, it must be ratified by the voters, special majorities of the popular vote being sometimes required.

**66. Amendment through the Initiative and Referendum.** A third method of amendment, that of the initiative and referendum, is found in several commonwealths. For example, in Oregon eight per cent of the legal voters may propose an amendment by petition. The proposal must be submitted to the voters, and if it receives a majority of all votes cast thereon, it becomes a part of the constitution.

**67. Authority of State Constitutions.** The constitution together with its amendments constitutes the supreme or  
Supreme or  
fundamental  
law
fundamental law of the commonwealth, to which all authorities, executive, legislative, and judicial, are subordinated. It is to be regarded as an organic law made by the people themselves acting through special conventions; and its high authority is owing to the fact that its enactment is a direct exercise of popular sovereignty. Hence the constitution overrides all minor State laws. Any act contrary to its provisions is null and void, and will be so declared if the act is drawn in question in a case properly before the court. On the other hand, the State constitution and statutes must not conflict with any provision of the federal constitution, or with any federal statute or treaty authorized under that instrument. If it is claimed that such conflict exists, the case may be carried for final decision to the Supreme Court of the United States.

#### GENERAL REFERENCES

- Ashley, R. L., *The American Federal State* (1903), pp. 344-350.  
 Beard, C. A., *American Government and Politics* (1910), pp. 78-98.  
 ——— *Readings in American Government and Politics* (1910), ch. v.  
 Borgeaud, Charles, *Adoption and Amendment of Constitutions in Europe and America* (1893).

- Bryce, James, *The American Commonwealth* (1907), I, chs. XXXVII-XXXVIII.  
Cleveland, F. A., *The Growth of Democracy in the United States* (1898), ch. v.  
Cooley, Thomas M., *Constitutional Limitations* (1903), ch. III.  
Dealey, J. Q., *Our State Constitutions* (1907).  
Hart, A. B., *Actual Government* (1903), ch. III.  
Jameson, J. A., *Constitutional Conventions* (4th ed., 1887).  
Landon, Judson S., *The Constitutional History and Government of the United States* (1905), ch. IV.  
McClain, E., *Constitutional Law in the United States* (1905), ch. II.  
Munro, William B., *The Government of the United States* (1920), pp. 404-414.  
Schouler, James, *Constitutional Studies* (1904), pp. 45-69.  
Thorpe, F. N. *Constitutional History of the United States* (1901), I, pp. 166-184.  
——— *The Federal and State Constitutions* (1909).  
Woodburn, James A., *The American Republic and its Government* (1908), pp. 342-348.

## QUESTIONS AND EXERCISES

1. When, by whom, and under what circumstances was the constitution of your State made?
2. Was it ratified by popular vote? Why should the people vote upon this question?
3. How many constitutions has your State had in all? Has any proposed constitution ever been rejected by the voters?
4. Does the present constitution of your State lack any of the parts named in Section 56?
5. If there is a bill of rights, make a list of the rights enumerated. Compare with those asserted in Magna Carta, the Bill of Rights (1688), the Declaration of Independence, and the Constitution of the United States.
6. Give reasons for the increased number of miscellaneous provisions inserted in recent State constitutions. Compare the number and content of the miscellaneous provisions in your State constitution with those of a recent constitution, e.g., Oklahoma, and also with those of an older constitution, e.g., Massachusetts.
7. How many amendments have been added to your State constitution? Make an outline showing in a few words the general subject-matter of each amendment.
8. Compare the amendments of your State constitution with those of the constitution of some other State.
9. Describe in detail the method by which your State constitution may be amended, giving (a) the method of proposing amendments, and (b) the method of ratification.
10. Suggested readings on State constitutions: Kaye, P. L., *Readings in Civil Government*, pp. 261-281.

## CHAPTER V

### THE STATE LEGISLATURE

**68. Composition of the Legislature.** The State legislature or general assembly invariably consists of two houses, the smaller of which is called the senate, the more numerous being styled the house of representatives, or assembly, or house of delegates. The two houses have practically equal powers, differing chiefly in the number of members, in the length of their term, and in certain special duties imposed upon each branch. The average membership of the senate is about thirty, while the house of representatives is generally three or four times as large.

For the purpose of electing members the States are divided into numerous senatorial and house election districts, the senatorial districts being considerably larger than the house districts.<sup>1</sup> In many commonwealths the county is the unit for districting, each county electing one or more members to the house, according to its population; while several counties are united into a single district to elect a senator.

An objection frequently urged against our method of electing legislators is that these officers represent not the entire body of voters, but the majority only. Various plans of securing minority representation have been proposed. One of these is the cumulative vote, which gives each elector as many votes as there are places to be filled, and allows him to distribute his votes as he pleases. By concentrating their votes upon one candi-

<sup>1</sup> In New England (excepting Massachusetts), each town ordinarily elects one or more members of the lower house of the legislature.



date, a large minority in any district is thus assured of representation.<sup>1</sup>

**69. The Members of the Legislature.** Members of the legislature are chosen by voters possessing the qualifications as to age, citizenship, and residence prescribed by the State constitution. Several commonwealths <sup>Qualifica-  
tions</sup> also have an educational or property qualification. As a rule, a person qualified to vote is eligible to membership; but holders of public office, State or federal, are generally disqualified from sitting in the legislature. In a few commonwealths, the age qualification for the Senate is higher than that for the house. In all States, either by law or custom, members must reside in the district from which they are elected.

The term of a senator is generally longer than that of a representative, although in nineteen commonwealths it is the same. In most of the States, senators are <sup>Term and  
salary</sup> elected for four years, while the common term for representatives is two years.<sup>2</sup> In twenty-four States the senate differs from the house in being a continuous body, only half of its membership being renewed at one time. Senators and representatives receive the same compensation, either an annual salary or a *per diem* compensation based upon the length of the legislative session.

**70. Organization and Procedure.** The time for the meeting of the legislature is fixed either by the State constitution or by statute. Annual sessions, formerly <sup>Legislative  
sessions</sup> the common practice, are now held in only six States;<sup>3</sup> while elsewhere sessions are biennial.<sup>4</sup> Special sessions may be called by the governor if occasion requires,

<sup>1</sup> This is the method followed in Illinois in the election of members of the lower house of the legislature. Three representatives are chosen from each district, and the voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute his votes or equal parts thereof as he sees fit.

<sup>2</sup> Massachusetts retains the old practice of annual elections for both senators and representatives; New York and New Jersey elect representatives annually.

<sup>3</sup> Georgia, Massachusetts, New Jersey, Rhode Island, New York, and South Carolina.

<sup>4</sup> Except in Mississippi and Alabama, where the regular meetings are held every four years.

or the legislature itself may adjourn to meet later in special session. The length of the session is often restricted to forty or sixty days. In case the two houses fail to agree upon a time for adjournment, the governor may adjourn them. The legislature sits at the State capitol, or State house, each branch having its separate chamber.

The internal organization follows closely that of Congress. Each house chooses its own officers (except that the lieutenant-governor is frequently the presiding officer of the senate). In each house there is a body of standing committees, generally appointed by its presiding officer, and a group of party leaders who act as a steering committee. Some legislatures, following the procedure in Congress, have a committee on rules which determines the order in which measures shall be considered. Each house determines its own rules of procedure; exercises the exclusive right of deciding upon the election and qualifications of its members; keeps a journal or record of its proceedings; disciplines members for disorderly or contemptuous behavior, even to the extent of expelling them;<sup>1</sup> and punishes persons guilty of contempt of the house or breach of its privileges. The legislature has the power to compel the attendance of witnesses and the production of papers when necessary to obtain information in aid of legislation; or it may appoint committees and invest them with these powers.

During the sessions, members of the legislature are privileged from arrest on civil process; and they also have the privilege of freedom of speech as to utterances made in the discharge of their official duties.

**71. The Enactment of Laws.** No law can be passed except by bill, which may be defined as "a written draft of a proposed act of legislation." A bill may originate in either house (except bills for raising revenue, which under most constitutions must originate in

**Procedure**

**Privileges  
of members**

**Introduction  
of bills**

<sup>1</sup> A two-thirds vote is ordinarily required to expel a member.



the lower branch). Bills may be introduced by any member, or by a committee, or by a message from the other house.

Upon introduction the bill is read (usually by title only), and referred to the appropriate standing committee. If favorably considered by the committee, it is printed and reported back to the house with such amendments as the committee may favor. The bill now receives its second reading, being read and debated section by section, and may be adopted, rejected, amended, referred back to the committee, or referred to the committee of the whole for further consideration.<sup>1</sup> If the bill passes upon second reading, it is generally referred to the committee on revision. It is then engrossed, that is, copied in legislative script, after which it is reported back to the house for its third reading and final vote. Many constitutions provide that on the final vote on every bill, the yeas and nays shall be entered upon the journal. This provision is intended to fix upon each member his due share of responsibility for legislation, and also to furnish conclusive evidence of the passage of a bill by the requisite majority. Some constitutions provide that all bills, or all bills on certain subjects, must receive a majority vote of the members elected; otherwise, a simple majority of a quorum is sufficient.<sup>2</sup>

After a measure passes one house, the engrossed copy is sent to the other house, where the same process is repeated. A measure which has passed one house may be altered, amended, or rejected by the other; but to become a law, the same act must pass both houses in the same identical form. If the measure is amended, it must go back to the originating house. If this body does not concur in the amendments, an effort is made to reach an agreement through the appointment by each house of members of a conference committee. When a bill has passed

<sup>1</sup> The committee of the whole is the entire house acting as a committee.

<sup>2</sup> By a quorum is meant the number necessary to transact business — generally a majority of the members elected.



both houses it is enrolled, then signed in open session by the presiding officer of each house, and presented to the governor.

**72. The Governor's Veto.** In all commonwealths except North Carolina, every bill which has passed both branches of the legislature must be submitted to the governor for his approval. If he signs the measure, it thereby becomes law; if not, he returns it with his objections to the house in which it originated, where the objections are entered at large upon the journal. Upon reconsideration the bill may become law notwithstanding the veto, provided it receives the votes of a sufficiently large majority (ordinarily two thirds of the members in each house). The governor generally has a period of ten days (excluding Sundays and holidays) in which to veto a measure. If he does not return the bill with his objections within this period, it becomes a law without his signature, unless the legislature by adjournment prevents its return. In a majority of the States the governor possesses the important power of vetoing particular items in an appropriation bill, while approving the rest of the measure. Unless otherwise provided, an act becomes operative and in force from the time of its approval by the governor.

**73. Scope of State Legislative Power.** The power of the State legislature extends to every subject of legislation, unless in the particular instance its exercise is forbidden by some provision of the State or federal constitution. Unlike Congress, which possesses legislative authority only over enumerated classes of subjects, the State legislature possesses general powers of legislation. If the question arises whether the legislature has power to pass a certain law, the presumption is that it can do so; and some positive prohibition either in the federal or State constitution must appear to overcome this presumption.

The possible subjects of State legislation may be classified under three heads: —



NEW YORK STATE CAPITOL AT ALBANY



OHIO STATE CAPITOL AT COLUMBUS



Bill accompanying the petition of William T. Dunn and others for legislation to remove certain restrictions upon fishing in the waters of Buzzards Bay. Fisheries and Game. January 24.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Ten.

AN ACT

Relative to taking Fish in the Waters of Buzzards Bay.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The mayor and aldermen of the city of New Bedford and the selectmen of any town bordering on the waters of Buzzards bay, may issue written permits authorizing any person to construct, maintain and operate weirs, pound nets or fish traps, in the waters within the limits of such city or town, for a term not exceeding five years from the date of issue, in accordance with the provisions of this act.

SECTION 2. No weir, pound or trap shall be authorized the total length of which exceeds twelve hundred feet.

SECTION 3. Said permits shall state the location in which said weir, pound or trap is to be located, the date when said permit expires, and shall be signed by the mayor and at least two aldermen and by a majority of the selectmen of the town in which said permit is issued.

SECTION 4. A fee of five dollars shall be paid for each permit issued by the person to whom same is issued.

SECTION 5. Nothing herein contained shall be construed as authorizing the construction, operation or maintenance of floating traps, so called, or other movable apparatus.

SECTION 6. The provisions of section one hundred and twenty-one of chapter ninety-one of the Revised Laws, and of all acts or parts of acts inconsistent herewith, are hereby repealed.

SECTION 7. This act shall take effect upon its passage.



(1) Ordinary private law, or the body of law which guides us in the every-day relations of life, as the law of contracts, domestic relations, property, torts, and crimes. Private law

(2) Administrative law, or the law relating to the carrying on of government, to the raising and expending of revenues, and to the control of personal and property rights so as to secure the general welfare. Administrative law  
This includes legislation concerning local government, public works, education, corporations, charitable and penal institutions.

(3) Local and special laws, or laws which apply to less than a class of subjects, as measures granting franchises to particular corporations, incorporating certain local communities, and the like. Local and special laws

74. **Limitations upon Powers of State Legislatures.** Although in theory State legislatures are invested with general authority to make laws, in practice their action is checked by important limitations. These limitations may be grouped under four heads: —

(1) Those expressly imposed by the national constitution.<sup>1</sup>

(2) Those implied from provisions of the national constitution, or from the nature of the relation between the States and the federal government. For example, the power vested in Congress to establish a uniform system of naturalization carries with it an implied prohibition against State laws upon this subject.

(3) Those expressly imposed by the State constitutions. Examples of subjects frequently prohibited are: statutes inconsistent with democratic principles (favoring any religious denomination, or granting titles of nobility); statutes against public policy (impairing the obligation of contracts, permitting lotteries); statutes which are private, local, or special in their nature (especially those designed to regulate

<sup>1</sup> *United States Constitution*, Art. I, Sec. 10; *ibid.*, Amendments XIII, XIV.

the internal affairs of counties and municipalities); statutes increasing the State or local debt beyond a certain amount.

(4) Those implied from the republican nature of State government. For example, there are certain implied limitations upon legislative power as a result of the principle that the legislature is to be regarded as a trustee for the people. Hence legislative power may not be delegated to any other body or person, but must be exercised by the legislature itself; nor can public property or governmental powers (as taxation and police powers) be surrendered to private persons. Public money raised by taxation can be appropriated and expended only for public purposes. Nor can the legislature pass any law which may not be repealed by a subsequent legislature, unless the act take the form of a contract founded upon a consideration.

**75. Non-Legislative Duties.** Besides their power to make laws, the legislatures of some commonwealths are charged with certain non-legislative duties, such as the **Electoral and judicial functions** election of certain State officers. Generally, too, they may impeach any State official for misconduct, the procedure in such cases resembling that in Congress.<sup>1</sup>

**76. Direct Legislation.** By direct legislation is meant that in which the people participate directly, instead of acting through their representatives. The most **The referendum** common example is the referendum, by which legislative measures are submitted to popular vote for approval or rejection.<sup>2</sup> Early in our history it became an established principle that proposed constitutions or amendments should be referred to the voters for ratification. The referendum has since been employed to determine questions of ordinary legislation, as the incorporation of municipali-

<sup>1</sup> See Sec. 214.

<sup>2</sup> "The referendum is a plan whereby a small percentage of the voters may demand that any statute passed by the legislature (with the exception of certain laws) must be submitted to the electorate and approved by a stipulated majority before going into effect." — Beard, C. A., *American Government and Politics*, p. 463.

ties, the organization of counties and townships, location of county seats, incurring of indebtedness, granting of municipal franchises, and issuing of liquor licenses. The referendum affords a valuable check upon the action of State legislatures and municipal councils; and it also provides a conclusive method of determining whether proposed legislation is approved by public sentiment.

The logical complement of the referendum is the initiative, by which a certain percentage of the voters are empowered to propose measures which must subsequently, with or without the intervention of the legislature, be submitted to popular vote. For example, the constitution of Oregon provides that any legislative measure may be initiated by a petition bearing the signatures of eight per cent of the voters, and containing the proposed measure in full. The petition must be filed with the Secretary of State at least four months before election day; and if approved by a majority of all those voting upon it at the election, the measure becomes a law.<sup>1</sup> Nineteen commonwealths have authorized the initiative and referendum in the case of State laws, and thirteen of these permit the voters to initiate constitutional amendments, as well as statutes.

### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. xxv.  
 ——— *Readings in American Government in Politics* (1910), ch. xxv.  
 Black, H. C., *Constitutional Law* (1897), ch. xiii.  
 Bryce, James, *The American Commonwealth* (1907), I, chs. XL, XLIV, XLV.  
 Cleveland, F. A., *Growth of Democracy* (1898), chs. viii-xv.  
 Cooley, Thos. M., *Constitutional Limitations* (1903), chs. v-vi.  
 Hart, A. B., *Actual Government* (1913), ch. vii.  
 McClain, E., *Constitutional Law* (1905), chs. v, viii.  
 Munro, William B., *The Government of the United States* (1920), pp. 415-430.  
 Oberholtzer, E. P., *The Referendum in America* (1900).  
 Ordronaux, J., *Constitutional Legislation* (1893), ch. x.  
 Reinsch, P. S., *American Legislatures and Legislative Methods* (1907), chs. iv-x.  
 Roosevelt, Theodore, *American Ideals* (1899), no. v.  
 Schouler, J., *Constitutional Studies* (1904), pp. 249-266.

<sup>1</sup> The Oregon statute provides for the publication and distribution of arguments for and against the propositions thus submitted to the voters for decision.



## QUESTIONS AND EXERCISES

1. What is the official name of your State legislature? Of each house? How many members in each house? Qualifications for membership?
2. Give arguments for and against the requirement that a member must be a resident of the district which elects him.
3. Draw an outline map of your State, and mark with different colors the boundaries of your State representative and senatorial districts.
4. Is the division of your State into senatorial and representative districts an equitable one? Or has the gerrymander been employed to give one party an undue advantage?
5. Examine the provisions of your State constitution concerning the number and apportionment of senators and representatives. Under what restrictions may the legislature change this apportionment?
6. For what term are members of your legislature chosen? What salary do they receive? Is the senate a continuous body?
7. Does your district frequently return the same members to the legislature, or is rotation in office customary? Who are the present members from your district? To which political party do they belong? Which party has a majority in your legislature?
8. How often does your legislature meet? Is the length of the session limited by the constitution?
9. Name the officers of each legislative house. Principal duties of each?
10. Discuss the position of the speaker of the lower house, and compare his influence upon legislation with that of the lieutenant-governor.
11. Who are the leaders of the majority party in your legislature? Of the minority party?
12. How many committees in each branch of your legislature? Name the most important ones.
13. Discuss the advantages and defects of the committee system.
14. Describe the steps by which a bill is enacted into law in your State.
15. What constitutes a quorum in each house of your legislature? How many votes are necessary in each house to pass a bill the first time? Over the governor's veto?
16. Organize your class into a house of the State legislature, and draw up and pass a bill in due form. (If possible obtain the assistance of your local representative.)
17. Make a list of the chief subjects with which your State legislature may deal. Compare this with the list of subjects over which a city council or town meeting has authority.
18. Examine the volume of laws passed at the last session of your legislature, and make an outline showing ten different subjects of legislation concerning which laws were passed.
19. What are the special powers of each branch of your State legislature?
20. Make a list of the most important limitations on legislative powers imposed by your State constitution.
21. What is meant by the "lobby"?
22. Give reasons for the growing popularity of the initiative and the referendum. (Kaye, P. L., *Readings*, pp. 295-303.)

## CHAPTER VI

### THE STATE EXECUTIVE

**77. Contrast between State and Federal Executives.** The organization of the executive department of the State government differs materially from that of the federal executive. In the national government, executive power is vested in a single individual, the President of the United States. He alone is an elective officer, other executive officials being appointed by and responsible to him.

Federal  
executive  
power cen-  
tralized

But in the State governments, executive power is vested in a number of elective and appointive officers who, together with the governor, share the executive power. The secretary of state, auditor, treasurer, and attorney-general are, like the governor, elected by the people; and they are as independent of him as is the legislature. In fact they are the governor's colleagues, not his agents or subordinates. Nor is the executive power vested solely in the governor and other principal State officers; for the actual execution of the laws does not rest with them, but with local officers chosen by the towns, counties, and municipalities. These local officials, including sheriffs and other county officers, town and city officials, are not ordinarily subject to State supervision, much less to immediate State control. They hold themselves accountable not to the State as a whole, but only to their part of the State. Hence State administration is decentralized; and the governor is not, like the President, directly and exclusively responsible for the execution of the laws.

State execu-  
tive powers  
distributed

**78. Election and Term of the Governor.** The governor is everywhere elected by popular suffrage, the earlier method

of choice by the legislature having been discarded. In most commonwealths the election for governor and other State officials is held on the Tuesday immediately following the first Monday in November. The term of office is either two or four years in nearly all of the States. Popular governors are often reëlected in commonwealths having the shorter terms, while elsewhere reëlection is less frequent. The constitutions of seven States prohibit the governor from serving two successive terms.

**79. Qualifications and Salary.** The constitutional qualifications for governor generally relate to age, residence, and citizenship. These qualifications vary widely, those most frequently prescribed being thirty years of age, five years of residence, and the same period of citizenship. The average salary of the governor is about \$5000.

**80. Administrative Powers and Duties.** As his foremost administrative duty, the governor is to take care that the laws are faithfully executed; but in the performance of this comprehensive duty, his power is limited by the fact that the execution of the laws is largely entrusted to State and local officials over whom he has slight control. "If he is of much force in the government of the State, it is because of his strong character. He is a passenger on board the ship, which is navigated by a crew which he does not select, and over which he has few powers of command."<sup>1</sup>

However, the governor has a general supervisory power over the executive officers of the State; he may investigate their conduct of business and require information upon subjects relating to the duties of their respective offices. Furthermore, he has the power of appointing the less important State officers (confirmation by the Senate being frequently required); and in some commonwealths he has a limited power of removal. When an elective State office becomes vacant, the governor appoints some one to serve until the next election.

<sup>1</sup> Landon, J. S., *The Constitutional History and Government of the United States*, p. 63.



The governor is commander-in-chief of the State militia,<sup>1</sup> and may call them out to repel invasion, or to suppress riots, insurrection, or disorder. The military authority of the governor is invoked by the sheriff or the mayor when local resistance to the law becomes too powerful to be suppressed by the means at his disposal. **Military powers**

**81. Political Duties.** More important than the foregoing administrative powers are the governor's political duties, especially those in connection with legislation. **Legislative powers** At the beginning of the session he transmits to the legislature a message calling attention to measures which he deems necessary. If urgent matters demand immediate consideration, he may summon the legislature to meet in special session; and he may adjourn that body in case the two houses are unable to agree upon a time for adjournment. Finally, in all States except North Carolina, the governor has a qualified veto upon all legislative acts, and in thirty commonwealths he may veto particular items in appropriation bills. Thus the governor exercises a large influence upon legislation, since only in exceptional cases is a bill likely to pass over his veto.<sup>2</sup>

Almost universally the governor has the power to grant pardons and reprieves in case of offenses committed against the State. A pardon discharges the individual from all or some of the consequences of his crime; while a reprieve suspends execution of the sentence for a specified time. In some commonwealths the governor may exercise this power only in conjunction with a board of pardons. **Reprieves and pardons**

**82. State Governors under the Federal Constitution.** The duties of the governor of a State are regulated to some extent by the federal constitution. For example, a person charged with crime who escapes to another State must be delivered up, on the requisition of the **Powers and duties**

<sup>1</sup> Except when in the actual service of the United States.

<sup>2</sup> Generally a two-thirds or three-fifths vote is required to pass a bill over the governor's veto. In Connecticut, Vermont, New Jersey, and Indiana, a simple majority is sufficient.

governor, to the executive authority of the State from which he fled.<sup>1</sup> Again, the United States is bound to protect each State against domestic violence upon application from its legislature; or if the legislature cannot be convened, at the request of the governor.<sup>2</sup> If vacancies occur in either branch of Congress, the governor of the State concerned issues writs of election to fill the vacancy. If the State legislature so directs, he may make a temporary appointment to the United States Senate, until the people fill the vacancy by election.<sup>3</sup>

**83. Other Principal Executive Officers.** Other important executive officers are the lieutenant-governor (in thirty-six States); the Secretary of State, and the treasurer (in all States); the comptroller or auditor, the attorney-general, and the superintendent of public instruction (in nearly every State). Ordinarily these officers are chosen by the voters at the general State election; but in several commonwealths certain important executive officers are appointed by the governor or elected by the legislature. Their term varies from one to four years, frequently being the same as that of the governor.

The principal executive officers are not under the direction or control of the governor or the legislature. Their duties are prescribed in the State constitution, and for their official acts they are responsible only to the people and to the courts. They do not constitute a cabinet responsible to the chief executive as in the presidential system of the national government, or a ministry responsible to the legislature as in the parliamentary system of European governments.<sup>4</sup>

**84. The Lieutenant-Governor.** The lieutenant-governor is generally president of the State senate, with a casting vote in case of a tie. He succeeds the

**Relation to  
governor  
and legis-  
lature**

**Nature  
of office**

<sup>1</sup> *United States Constitution*, Art. iv, Sec. 2.

<sup>2</sup> *Ibid.*, Art. iv, Sec. 4.

<sup>3</sup> *Ibid.*, Amendment xvii.

<sup>4</sup> Usually, the chief executive officers can be removed only by impeachment. States having the *recall* for all elective State officers, or for all except judges, are: Arizona, California, Colorado, Idaho, Kansas, Louisiana, Michigan, Nevada, North Dakota, Oregon, Washington.

governor in case of the latter's death, resignation, removal, or disability.

85. **The Secretary of State.** The secretary of State has charge of all State records, and of the seal of the commonwealth by which State documents are authenticated. He publishes the laws of the State; registers the official acts of the governor; certifies the incorporation of all companies; draws up commissions to public officers; takes charge of election returns; and collects and publishes statistics.

"Chief  
clerk" of  
the State

86. **State Auditor or Comptroller.** The State auditor or comptroller is the public accountant charged with supervision of the State's financial business. He examines and passes upon all claims presented against the commonwealth; and no money can be paid out of the treasury except upon a warrant issued by him. He prepares for the legislature estimates of revenues and expenditures; audits the accounts of all officers charged with the collection of revenue; sees to it that such officers are under sufficient bond; and enforces payment of moneys withheld or uncollected. He keeps a record of all moneys paid into the treasury, and of all appropriations and warrants; and since his books must tally with those kept by the treasurer, his office serves as a check upon the latter.

Supervision  
of State  
finance

87. **The State Treasurer.** The treasurer receives all State funds, for which he issues receipts, and disburses them only upon warrants signed by the auditor. At stated intervals he is required to publish statements of balances, and his books, like those of the auditor, are at all times open to inspection. Both treasurer and auditor are often *ex officio* members of various financial boards.

Custodian of  
State funds

88. **The Attorney-General.** The attorney-general is the legal adviser of the governor and other officers, and he also represents the commonwealth in all civil and criminal cases to which the State is a party. Especially is it the duty of this officer, aided by the district

State's  
attorney



prosecuting attorneys or solicitors, to watch over and protect the constitution of the State from encroachment by the government or violation by individuals. The numerous cases in the courts entitled *State ex rel. v. —*, or *People v. —*, are the mediums through which the attorney-general and prosecuting attorneys attack offenders against the constitution and the laws. These proceedings generally take the form of prosecution by *indictment* for criminal offenses; or *mandamus* to compel the performance of official or other public duties; or *quo warranto* to try the right to exercise a public office or franchise; or *information* or *bill in equity* to vindicate the rights of the State or of the general public.<sup>1</sup>

**89. State Superintendent or Commissioner of Schools.** The superintendent of public instruction, sometimes known as the commissioner of common schools, Supervision of education exercises a general supervision over the public school system. In the commonwealths having State boards of education, he is generally an *ex officio* member of that board.

**90. Appointive Officers of State Administration.** In addition to these elective officers, a large number of appointive officials are charged with special administrative duties. Most of these are appointed by the governor (generally with the consent of the senate) for terms varying from one to four years; and they are ordinarily subject to removal by the appointing power. Among the most important of these officials, some of whom at least are found in every commonwealth, may be named: adjutant-general; State surveyor; geologist; fire marshal; librarian; factory inspector; engineer; tax commissioner; superintendent of public printing; commissioner of banking; insurance commissioner; superintendent of weights and measures; commissioner of immigration; commissioner of agriculture; commissioner of mines and forests; food and dairy com-

<sup>1</sup> In this way the great Pullman Company was checked in its growth as a municipal corporation and compelled to sell the town of Pullman. — *People v. Pullman Car Co.*, 175 Ill., 125.

missioner; superintendent of public works; superintendent of prisons.

91. **State Boards or Commissions.** In addition to these individual officers, a large share of administrative business is entrusted to State boards or commissions.<sup>1</sup> These are generally appointed by the governor with the **Composition** consent of the senate, for terms varying from four to eight years. Members are sometimes paid, especially when they give a large part of their time to the service; frequently they serve without pay, and elect an executive officer who receives a salary, and upon whom the greater part of the work devolves. The legislature often endows these boards with large powers, in the exercise of which they are practically free from executive control.

92. **Civil Service Reform.** Early in the nineteenth century the "spoils system" was extensively applied in filling State as well as federal offices, these positions **The spoils system** being made the reward for successful electioneering and wire-pulling. Throughout the greater part of the Union the same system is still employed in filling appointive State offices, and frequently the main issue in political campaigns is the question which party shall control the patronage. Standards of service have been adopted which would not be tolerated in any successful private business. Tenure of office is often dependent not upon faithful devotion to public duty, but upon compliance with private instructions from the "regular organization."

To remedy the evils of the spoils system, nine States<sup>2</sup> have adopted systems of civil service reform similar to that employed by the federal government. The object **The merit system** of this merit system is threefold: first, to exclude ignorant and incompetent persons who have nothing to recommend them save political influence; second, to assure

<sup>1</sup> For example, boards of agriculture, health boards, railway commissions, boards of education, examining boards in the professions of law, medicine, etc.

<sup>2</sup> New York, Massachusetts, Wisconsin, Colorado, New Jersey, California, Ohio, Connecticut, and Illinois.

intelligent and competent persons an equal opportunity to secure public employment; and third, to make tenure of office secure for competent officials. To attain this end, several commonwealths have established a system of competitive examinations, practical in character; political and religious interrogatives have been prohibited; assessments upon office-holders are forbidden; and tenure and promotion are made to depend upon ascertained merit, rather than upon political influence.

### GENERAL REFERENCES

- Andrews, James DeWitt, *American Law* (1900), pp. 477-485.  
 Beard, C. A., *American Government and Politics* (1910), ch. xxiv.  
 ——— *Readings in American Government and Politics* (1910), ch. xxiv.  
 Black, H. C., *Constitutional Law* (1897), pp. 267-279.  
 Bryce, James, *The American Commonwealth* (1907), I, ch. xli.  
 Cooley, Thos. M., *Constitutional Limitations* (7th ed., 1903), pp. 218-222.  
 Finley, J. H., and Sanderson, J. F., *The American Executive and Executive Methods* (1908), pp. 1-184.  
 Fiske, John, *Civil Government* (1904), pp. 175-179.  
 Goodnow, F. J., *Comparative Administrative Law* (1893), I, 74-82.  
 Hart, A. B., *Actual Government* (1903), ch. viii.  
 James, J. A., and Sanford, A. H., *Government in State and Nation* (1903), ch. iii.  
 McClain, E., *Constitutional Law* (1905), pp. 197-212.  
 Munro, William B., *The Government of the United States* (1920), pp. 431-444.  
 Schouler, James, *Constitutional Studies* (1904), pp. 267-282.  
 Wilson, W., *The State* (1906), secs. 1174-1208.

### QUESTIONS AND EXERCISES

1. Give the term, qualifications, and salary of the governor of your State.
2. Is the governor of your State reëligible for a succeeding term? If so, is reëlection customary?
3. Are candidates for governor in your State nominated at primaries or by conventions? When does the State election occur?
4. Who were the candidates for governor at the last election? What was the plurality of the successful candidate?
5. What officers may your governor appoint? Is the consent of the Senate necessary?
6. What powers of supervision may your governor exercise over State officials? Has he power to remove any officials? If so, under what circumstances?
7. What vacancies in judicial, county, or State offices may be filled by the governor in your State?
8. Examine the provisions of your State constitution concerning the governor's legislative powers, including his power (a) to convene the legis-



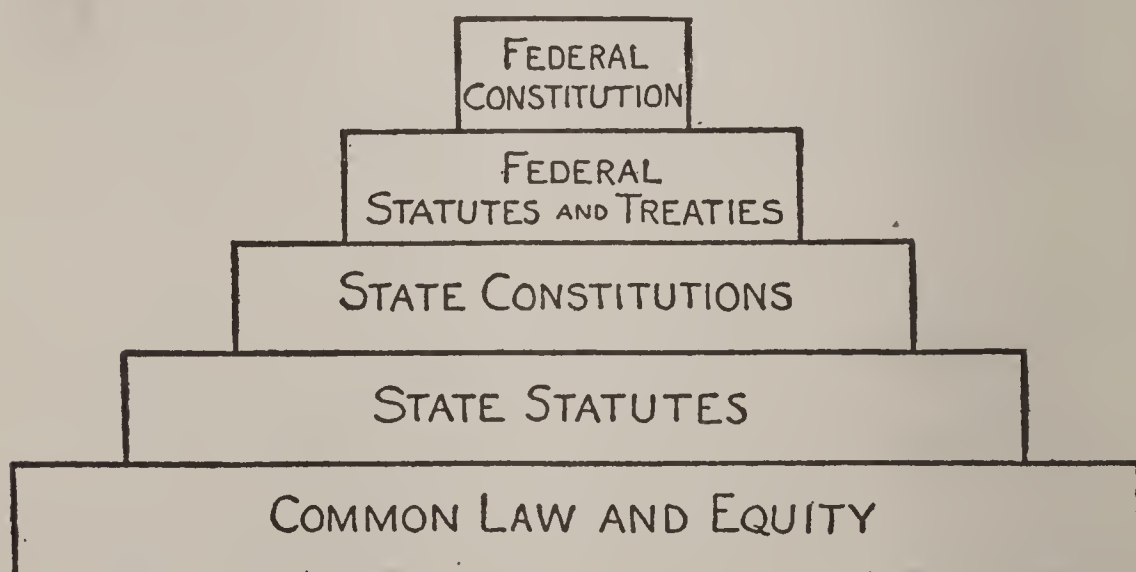
lature in extra session, and to adjourn it under certain conditions; (b) to recommend legislation; (c) to veto legislative acts.

9. How may the governor's veto be overcome in your State?
10. May your governor veto items in an appropriation bill?
11. What power has he over pardons and reprieves? Is the consent of a board of pardons or other body required?
12. Has the governor of your State had occasion to call out the militia within recent years? If so, under what circumstances?
13. In general, would you say that the governor of your State exercises large or small powers over legislation and administration?
14. Secure a copy of a message issued by your governor; of one of his proclamations. What subjects are covered by each?
15. Who would succeed the governor in the event of a vacancy in this office?
16. In most commonwealths the seven principal executive officers are the governor, lieutenant-governor, secretary of State, treasurer, auditor or comptroller, attorney-general, and superintendent of education. Prepare an outline giving the following facts concerning each of these officers in your State: how chosen, term, qualifications, salary, duties and powers, how removed.
17. Which of the minor administrative officials mentioned in Section 90 are found in your State?
18. Prepare a list of the most important boards and commissions of your State. Tell concerning each, how chosen, term, and functions.
19. "In general, State laws are administered by local officials over whom the governor has no control." — Illustrate by giving examples in the government of your own State. State the advantages and disadvantages of this decentralized system of administration.
20. "In certain fields there is a marked tendency to develop a system of supervision over local officials by enlarging the powers of State boards of education, charities and corrections, and public health." — Is this true in your State?
21. State the advantages and defects of State boards or commissions.

## CHAPTER VII

### THE STATE JUDICIARY

93. **Our System of Law.** The first great source of our body of law is the English common law: the second important source consists of the statutes enacted by the State legislatures. Most legislative measures belong to the branch of administrative law, relating to the structure and functions of government; but many statutes are passed affecting private law. Such are the laws relating to wills and the succession of property, marriage and divorce, corporations, partnerships, and crimes. Civil and criminal procedure is commonly regulated by



OUR SYSTEM OF LAW

statute, and a few commonwealths have gone even further, and attempted to codify the entire body of common law.

The State constitution is still another source of the law

enforceable in the State courts. Next come the federal statutes and treaties; and finally, the source of supreme and controlling authority is the federal constitution, with which all other laws must accord.<sup>1</sup>

**94. System of State Courts.** The judicial power of each State is to-day vested in a system of courts generally comprising three grades: first, inferior courts, or those of lowest grade; second, courts of general original jurisdiction; <sup>Constitutions and federal statutes</sup> and third, courts of last resort.

**95. Inferior Courts.** Inferior courts include those of justices of the peace, and police or other city courts. Justices of the peace have original jurisdiction <sup>Justices' courts</sup> over minor civil cases; for example, where the amount involved does not exceed a certain small sum (generally \$100), and where the title to real estate is not drawn into controversy. In some commonwealths, justices of the peace try petty offenses, such as breaches of the peace; while in the more serious criminal cases they may cause the arrest of persons charged with crime, and if there is *prima facie* evidence of guilt, bind over the accused to await the action of the grand jury.<sup>3</sup>

In large cities the civil and criminal jurisdiction of justices of the peace is ordinarily divided between <sup>City and police courts</sup> two sets of courts: the municipal or city courts, which exercise a minor civil jurisdiction; and police or

<sup>1</sup> The English common law (known also as customary or unwritten law) "is that rule of civil conduct which originated in the common wisdom and experience of society, in time became an established custom, and has finally received judicial sanction and affirmance in the decision of the courts of last resort." This law has been interpreted and largely developed by the courts, and is evidenced chiefly in their decisions of cases tried before them.

From the first the American colonists claimed the common law as their birthright, so far as it was applicable to their condition; and upon the original foundation of the English common law the whole system of American jurisprudence has been built. Except as modified by constitutional or statutory enactments, the English common law, now become the American common law through adaptation to our circumstances, state of society, and form of government, is to-day in force in the several States.

<sup>2</sup> Original jurisdiction is the power to hear or decide a legal controversy, or to administer a remedy, in the first instance. Appellate jurisdiction is the power to review the decision of some other court.

<sup>3</sup> If the grand jury finds that there is not sufficient evidence against the accused to warrant holding him for trial, he is discharged; if the contrary is the case, he is formally charged with the crime in an indictment, whereupon he must stand trial.



magistrates' courts, which try petty criminal offenses, and make a preliminary investigation in case of felonies or serious misdemeanors.

**96. Courts of General Original Jurisdiction.** The second grade of State courts embraces those of general original jurisdiction,<sup>1</sup> civil and criminal, over all suits, actions, and judicial proceedings (so far as this jurisdiction is not restricted by law). These are the ordinary courts for the trial of civil and criminal actions, and in them most of the judicial activity of the State is centered. In some commonwealths, courts of this class have appellate jurisdiction from the inferior justices' or municipal courts.

**97. Courts of Last Resort.** The third and highest class of State tribunals is the supreme court, known also as the court of appeals, or court of errors and appeals. The supreme court<sup>2</sup> is the court of last resort in which the supreme judicial authority of the State is vested. This court usually sits at the State capitol. The number of judges ranges from three to nine, whereas a court of the first or second grade is ordinarily presided over by a single justice or judge. As a rule the principal business of the supreme court is to review the decisions of courts of the first and second grade in cases carried up on appeal or writ of error, and to determine whether the judgment of the lower court is to be sustained or reversed. Its decisions are final and binding upon all persons within the State; but in exceptional classes of cases (where a federal law, treaty, or the federal constitution is involved), its decisions may be reviewed by the Supreme Court of the United States.

**98. Special State Courts.** In order to lighten the work of the court of last resort, several commonwealths, including Ohio, Illinois, Pennsylvania, Louisiana, and Missouri,

<sup>1</sup> In different States this tribunal is known by different names, as the circuit court, district court, superior court, court of common pleas, etc.

<sup>2</sup> In several States, including New York, New Jersey, and Kentucky, the so-called supreme court is not supreme in fact, since above the supreme court is a court of appeals to which certain cases may be taken. The latter is therefore the actual supreme court.

have established between the courts of the second grade and the supreme court an intermediate court of appeals. This tribunal has appellate jurisdiction only, and its decisions are final in all except certain classes of cases, which may be carried up to the supreme court.

Intermedi-  
ate courts  
of appeal

Most of the States have provided special courts (generally one for each county), variously called probate courts, surrogates' courts, orphans' courts, or courts in ordinary. These tribunals are vested with jurisdiction over the probate of wills, appointment of administrators and guardians, care of the estates of wards, and settlement of the estates of decedents.

Probate or  
surrogates'  
courts

99. **Choice of State Judges.** Under the first State constitutions, the selection of judges was generally entrusted either to the legislature or to the governor; but during the first half of the nineteenth century the choice of judges by popular vote became established as the general practice.<sup>1</sup> Supreme court justices are now generally elected by the voters of the commonwealth at large; while circuit, district, and county judges are chosen by the voters of the area included within the jurisdiction of the court.

State  
judiciary  
becomes  
elective

100. **Tenure of State Judges.** Judges of the supreme court have practically a life tenure in only three States, Massachusetts, New Hampshire, and Rhode Island; while elsewhere they are chosen for a fixed term of years, varying from two in Vermont to twenty-one in Pennsylvania. The average constitutional term is about eight years, but reelection is frequent, so that the period of actual service is longer. The term of judges of the lower courts generally varies with the grade of the court, being especially short in case of justices of the peace. Like other commonwealth

<sup>1</sup> Judges are now elected by popular vote in thirty-seven States; by the legislature in four (Rhode Island, Vermont, South Carolina, and Virginia); appointed by the governor in six (Massachusetts, Maine, New Hampshire, Connecticut, Delaware, and New Jersey); while in Florida judges of the supreme court are elected by the people, and superior court judges are appointed by the governor.

officers, judges may be removed through the process of impeachment.

**101. Salary and Qualifications.** Nineteen States pay the judges of their highest courts more than \$5000, the average salary being about \$6000. Salaries of judges of lower courts are considerably less than those of supreme court justices. The constitutions of most States provide that the salaries of judges may not be increased or diminished during their term of office.

The qualifications required for judges include a minimum age of twenty-five to thirty-five years, citizenship for a varying period of years, and residence within the State or judicial district. Comparatively few constitutions require judges to be members of the legal profession, although this qualification is prescribed by custom except for justices of the peace.

**102. Subordinate Officers of Courts.** The subordinate officers of State courts are the recording officer or clerk, the executive officer (sheriff or constable), and the attorneys. The clerk or prothonotary keeps the record of all judicial proceedings, has charge of the seal of the court, and issues all writs. This officer is generally appointed by the court or elected by popular vote.

The executive officer of inferior courts is the constable, and of the higher State courts, the sheriff. These officers are elected by the voters of the township or county, respectively, and are charged with the execution of all orders, judgments, and decrees of their respective courts.

Litigation is ordinarily conducted by men educated in the profession of law, known as attorneys. Before being admitted to practice, these officers must pass a satisfactory bar examination conducted under the authority of the supreme court. The government's cases are conducted by the attorney-general (representing the commonwealth as a whole), and by prosecuting attorneys or solicitors in each county.



103. **The Protection of Rights.** The jurisdiction of State courts extends to all classes of cases, civil and criminal,<sup>1</sup> except as limited by provisions of the State or <sup>Private</sup> federal constitution. The chief purpose for which <sup>rights</sup> State governments exist is the protection of individual rights, including personal rights (of life, reputation, personal liberty, and bodily security); rights of property, or the free use and enjoyment of those things justly acquired; and contract rights, or the enforcement of legal agreements which one person has with another.

To deprive any person of a right which the law grants him is a legal wrong, rendering the offender liable to prosecution in court — “the place where justice is <sup>Redress</sup> legally administered.” Thus the person who suf- <sup>of wrongs</sup> fers a legal wrong has the whole force of government at his disposal to secure redress, for the judgment of the court will be enforced by the executive authority of the State.

Legal wrongs are of two classes, public and private. If a wrong is committed primarily against a private person, it is known as a private wrong or tort; but if <sup>Private</sup> it reaches beyond the individual and affects the <sup>wrongs</sup> community at large, it is a public wrong or crime, and will be redressed by government in a criminal proceeding.<sup>2</sup> To constitute a private wrong, an action must be wrongful in itself, that is, not authorized by law; and it must result in actual or legal damage. The person whose rights have been invaded by a wrongful and injurious act may bring a civil action or suit before the proper court, requesting compensation for his injury.

104. **Procedure in Civil Cases.** The parties to a civil action are the plaintiff and the defendant. The <sup>Parties</sup> plaintiff is the party who claims to have sustained the injury and who brings the action; and the defendant is the one against whom the action is brought.

<sup>1</sup> For the criminal jurisdiction of State courts, *see* chapter VIII.

<sup>2</sup> *See* Section 110.

The first step is the filing of the plaintiff's statement of the grounds of his suit, this being known as his declaration, complaint, or petition. The plaintiff must apply to the clerk of the court for a writ summoning the defendant to appear in court and meet the charges made against him. This summons is served on the defendant by the sheriff or constable. The clerk also issues a summons or *subpœna* to all witnesses whose testimony is desired by either party. The defendant then files his reply or answer, setting up any defense which he may have to the allegations made against him. The plaintiff may reply to this, and the defendant may then answer in turn until an issue is reached, that is, "some specific point of law or fact affirmed on one side and denied on the other."

As a rule either party in a civil case may demand a trial by jury,<sup>1</sup> which generally consists of twelve men. The method of selecting a jury is carefully regulated by law, and by "challenges" either party may secure the rejection of objectionable persons.

After the selection of the jury, the plaintiff's counsel states the nature of the case as set forth in the declaration, and outlines the main facts which he expects to prove. The plaintiff's witnesses are next examined orally, the defendant being given an opportunity to cross-examine each witness after his direct testimony has been given. When the plaintiff's case has been presented, his attorney announces that he "rests." The defendant's attorney then outlines what he proposes to prove and introduces his evidence, at the close of which the plaintiff has an opportunity to introduce rebutting testimony. Only that evidence is admissible which, in the opinion of the judge, is material and relevant to the case. When the testimony is closed, the cause is argued to the court and jury by the counsel for each side, the plaintiff's counsel opening and closing.

<sup>1</sup> In equity cases there is ordinarily no jury, and any civil case may be tried without a jury if both parties consent.

Throughout the trial the judge decides what evidence may properly be presented to the jury, and after the closing argument, it is his duty to instruct them on the points of law involved in the case. Either party may move for particular instructions, the granting or refusing of which by the court, if erroneous, may be taken advantage of by a bill of exceptions. After receiving their instructions, the jury retire for deliberation under charge of an officer of the court. Ordinarily their verdict must be unanimous; and if agreement is found impossible, they may be discharged by the judge, the cause then remaining for trial as if none had taken place. If they are able to agree, a verdict is rendered for the plaintiff or defendant; and after the verdict has been accepted by the court, judgment is rendered accordingly. If no appeal is taken from this judgment, it is enforced, if against the defendant, by a process called execution, which is an order of the court directing the sheriff (or constable) to see that the judgment is satisfied. Legal judgments are generally directed against the defendant's property, which will be seized and sold unless the plaintiff be paid the damages or compensation in money awarded to him. Judgments in equity are ordinarily directed against the person of the defendant, directing him to do or refrain from doing some particular thing.

Duties of  
judge and  
jury

The decision of the court is not always accepted as final. Under certain conditions the judge who tried the case will grant a new trial; or the dissatisfied party may carry the case up to the next higher court, either by appeal or writ of error.

Appeal or  
writ of error

105. **Adjudging Legislative Acts Unconstitutional.** In addition to the functions ordinarily performed by courts in all countries, American tribunals stand practically alone in the possession of a power which has greatly enhanced their dignity and importance. The American judiciary is the final and authoritative interpreter of the constitution. In every commonwealth the

Unique  
power of  
American  
judiciary



written constitution is the supreme and fundamental law to which all legislative acts must conform. The statute is the expressed will of the legislature; but the constitution is the expressed will of the people, and is therefore of higher legal authority. In their State constitution the people have limited and defined certain governmental agencies, including the legislative, executive, and judicial departments, and have formally announced certain fundamental principles. Hence if the acts of any of these agents are in conflict with the will of the people as expressed in the constitution, such acts are null and void and may be so declared by the courts.

An act adjudged unconstitutional is null and void — it is, in legal contemplation, as inoperative as though it had never been passed. The decision of the court in the case is binding only upon the parties to the suit; but it establishes a precedent which will be followed if the same question is again presented to the court, and hence it furnishes a notice to all parties that the statute is to be treated as void and of no effect.

**106. Judicial Control of Executive Officials.** A second important characteristic of the American judiciary is the indirect control which it exercises over executive officials through its power to pass upon the legality of executive acts. Thus if a governor should illegally remove an official from office, the latter may bring an action against the governor in the proper court; and if it be shown that the officer was unlawfully removed, the court will reinstate him. Similarly, any citizen who is wronged by an executive act may bring suit against the offending officer in the ordinary courts, as he would against a private citizen.

American courts use freely their power to issue writs of *mandamus* in order to compel executive officers to do acts which it is their plain duty to perform, providing the act is one ministerial in its nature and not involving the exercise of official discretion. They

Effect of  
unconstitu-  
tional act

Executive  
officials  
amenable  
to courts

Writs of  
mandamus  
and injunc-  
tion

also issue writs of *injunction* to prevent officials or private individuals from performing illegal acts.

**107. Relation of State to Federal Courts.** State and federal courts are entirely independent in the exercise of their respective powers. Their jurisdiction, generally distinct, in some cases overlaps. Many civil cases can be brought at the option of the plaintiff either in a State or federal court; or, when brought by the plaintiff in the State court, may be removed to the federal court by the defendant.

In any case tried in a State court, if the federal constitution, or a federal law or treaty is involved, and the decision is against the party claiming a right, title, privilege, or immunity under federal law, the case may be appealed for final decision to the Supreme Court of the United States. If the State court upholds the federal law, its decision is final.

**108. Interstate Judicial Relations.** The courts of the different States are entirely independent of each other, subject to the limitation contained in the federal constitution that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State."<sup>1</sup> Decisions of a State court constitute precedents of binding obligation only within the boundaries of the particular commonwealth. The decisions of courts of other commonwealths are constantly quoted in legal proceedings, but have no authority beyond the intrinsic value of their reasoning and conclusions.

No State court can summon before it witnesses who live in another State, since the legal process of the court is not effective beyond the boundaries of the commonwealth. In order to avoid this difficulty, all States permit testimony for use in civil cases to be taken outside their limits by deposition.

<sup>1</sup> *United States Constitution, Art. IV, Sec. 1.*

## GENERAL REFERENCES

- Baldwin, Simeon E., *The American Judiciary* (1905), chs. VII-VIII, X-XI, XIV, XXII.
- Beard, C. A., *American Government and Politics* (1910), ch. XXVI.
- *Readings in American Government and Politics* (1910), ch. XXVI.
- Black, H. C., *Constitutional Law* (1897), ch. XII.
- Bryce, James, *The American Commonwealth* (1907), I, ch. XLVII; II, chs. CI, CII.
- Cooley, Thos. M., *Constitutional Limitations* (1903), ch. VII.
- Hart, A. B., *Actual Government* (1903), ch. IX.
- McClain, E., *Constitutional Law* (1905), ch. XXIV.
- Munro, William B., *The Government of the United States* (1920), pp. 489-500.
- Schouler, James, *Constitutional Studies* (1904), pp. 283-295.
- Walker, Timothy, *American Law* (1905), pp. 50-60, 108-117, 566-628.
- Wilson, Woodrow, *Constitutional Government in the United States* (1908), ch. VI.
- *The State* (1906), secs. 1147-1173.

## QUESTIONS AND EXERCISES

1. Name the several grades of courts in your State, beginning with the lowest.
2. How many judges constitute the highest court? How are they chosen? Give their term of office, qualifications, and salary.
3. Where and when does the highest court hold its sessions? Name the judges.
4. Do all the judges of the highest court belong to the same political party? Has any attempt been made in your State to secure a non-partisan judiciary?
5. Answer questions in 2 concerning judges of the lower courts.
6. How may a judge be removed from office in your State?
7. What is the number of the judicial circuit (or district) in which you live? What territory does it include? Name the judges.
8. Is there a court in your State corresponding to the probate court described in Section 98? If so, what cases are tried in it?
9. If you live in a large city, what special courts exist there?
10. Do you favor appointment or election of judges? Short or long terms? Give reasons.
11. Describe the kind of man who you think would make a good judge.
12. In what court would you sue a man for a debt of \$20? For a debt of \$2000? In what court would a man accused of murder be tried? A man accused of violating a speed ordinance?
13. What are the advantages and defects of trial by jury?
14. Visit the courthouse when court is in session, and write a description of the court-room and the trial.
15. Suggested readings on the State judiciary: Kaye, P. L., *Readings*, pp. 311-328.



## CHAPTER VIII

### CRIME AND ITS PUNISHMENT

**109. Public Wrongs or Crimes.** A crime may be defined as an act forbidden by law as injurious to the public, and which government prosecutes and punishes in its own name. The legal classification of crimes is based upon the nature of the punishment, and includes three grades: treason, felonies, and misdemeanors. **Treason, felonies, and misdemeanors** Treason is a crime aimed at the government itself, and consists in levying war against the United States, or adhering to its enemies, giving them aid and comfort. Felony includes all the more serious crimes punishable either by death or by imprisonment in the penitentiary; while misdemeanors are offences of a minor nature, punishable by fine or imprisonment in the county jail or workhouse.

**110. First Steps in a Criminal Action.** The various steps in a criminal proceeding are designed to safeguard the social welfare, while at the same time protecting the rights and liberty of the individual. As a general rule, the person supposed to be an offender is arrested in pursuance of a warrant, that is, an order issued by a proper magistrate and addressed to an officer directing him to arrest the person named. **Warrant and arrest** But either an officer or a private individual may arrest without warrant under certain circumstances; for example, if a crime is being committed in view of the person who apprehends the criminal.

The next step is the examination before a court having original jurisdiction over the offense. In case of felonies this is generally a preliminary step to ascertain whether there is reasonable cause to hold the accused to await the action of the grand jury; and if guilt **Examination**

seems probable, or if the accused waives examination, he is committed to jail by a *mittimus*,<sup>1</sup> or released on bail.<sup>2</sup> But in case of misdemeanors, magistrates often have summary jurisdiction, and at once proceed with the trial, render a decision, and assign a penalty.

**III. Framing a Formal Accusation.** Most State constitutions as well as the federal constitution provide that “no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury.” The grand jury is a body of citizens (usually twenty-three) chosen from the people of the county for the purpose of inquiring into offenses committed therein. The public prosecutor lays before this body the information or complaint, together with the evidence in its support. If a majority of the grand jury believe the evidence sufficient to warrant putting the accused person on trial, their foreman indorses on the indictment “a true bill,” whereupon it is returned to the court in order that the defendant may be tried. If the evidence does not appear sufficient, the accused has a right to discharge, but may be subsequently indicted by another grand jury. In addition to cases brought before it by the prosecutor, the grand jury may inquire into offenses which have come to their own notice, and if the evidence warrants, may render a presentment or formal accusation, whereupon the court generally orders an indictment to be framed.

In States whose constitutions do not require indictments or presentments, prosecutions are usually initiated by means of an information or written accusation presented under oath by the public prosecutor to the court having jurisdiction of the offense charged. Both the infor-

<sup>1</sup> If there is reason to suppose that a person has been illegally committed to jail, he is entitled to a writ of *habeas corpus*. This is an order issued by the judge commanding that the person held be brought before the court in order that it may be judicially determined whether he is legally detained.

<sup>2</sup> Bail is the delivery or bailment of the arrested person to certain sureties, upon their giving sufficient security for his appearance in court. The amount of the bond varies with the enormity of the offense charged.

mation and the indictment must set forth all the essential elements and circumstances of the offense, so that the accused may know the nature of the crime, and may be prepared to offer evidence in his own defense. In case the person against whom the indictment or information is found has not been arrested and brought before the court, a warrant known as a process is issued for his apprehension.

**112. Arraignment and Trial.** The next step is arraignment. Before the bar of the court in open session the indictment or information is read to the accused, and he is asked to plead guilty or not guilty to the <sup>The plea</sup> accusation. If he stands mute and refuses to answer the arraignment, the court will order a plea of not guilty to be entered. A plea of guilty amounts to a waiver of the trial, and the court may forthwith decree judgment. If the accused pleads not guilty, his attorney may under certain circumstances object to the jurisdiction of the court, demur, offer plea in abatement or in bar; or he may proceed with the trial of the issue.

The trial is the legal investigation of the issues created by the prosecution and the plea. Constitutional provisions commonly secure the right of the accused: (1) to be admitted to reasonable bail; <sup>Constitutional safeguards</sup> (2) to have a copy of the accusation against him; (3) to be heard by himself and counsel; (4) to meet the witnesses face to face; (5) to have compulsory process for obtaining witnesses in his favor; (6) to have a speedy public trial before an impartial jury; and (7) not to be twice placed in jeopardy for the same offense.

The petit jury is a body of twelve citizens legally selected from the people of the county, and duly impaneled and sworn to try the issue between government and <sup>The petit jury</sup> the accused. Before the jury is sworn, both the prosecution and the defense may object to any individ-

<sup>1</sup> Except for capital offenses where the guilt is evident or the presumption great.



uals who, for valid reasons, ought not to serve;<sup>1</sup> and a certain number of peremptory challenges is also allowed.

When the jury have been sworn, the indictment and plea are read to them, and the trial begins. The various steps include the introduction of evidence, the arguments of counsel, the charge of the court, the deliberation and verdict of the jury, and the judgment. Two of the most important rules of evidence in criminal cases are that the accused is always presumed to be innocent until he is proved guilty; and that the prosecution must prove affirmatively, and beyond a reasonable doubt, every material allegation in the indictment. The accused has the right to testify in his own behalf, but is protected by constitutional provision from being compelled to do so. In criminal cases the verdict of the jury must be unanimous. If after due consideration the jury cannot agree upon a verdict, they may be discharged and the accused remanded for another trial. If the verdict is an acquittal, the accused is immediately discharged; if it is one of conviction, the accused may under certain circumstances immediately file a motion for a new trial or in arrest of judgment.

If neither of these motions is made or if, having been made, it is overruled, the court proceeds to judgment. This is an order directing the kind and measure of punishment to be inflicted on the accused, in conformity with the laws prescribing penalties for such offenses. Unless stayed by error proceedings or reprieve, or prevented by pardon, execution of the judgment follows; and this consists in the infliction upon the offender of the punishment imposed by the court.

**113. The Punishment of Crime.** Fines or imprisonment, or both, are the penalties commonly inflicted; and these vary greatly in severity throughout the Union, even for the same offense. Laws defin-

**Steps in  
the trial**

**Judgment**

**Common  
punish-  
ments**

<sup>1</sup> Any juror who states that he has formed an opinion about the case is incompetent to serve, provided he would not be able to try the case fairly on the evidence presented.

ing crimes usually prescribe a maximum and minimum penalty, the exact punishment within these limits being left to the discretion of the trial judge. Imprisonment is generally for a fixed period which may be reduced by good behavior; but several commonwealths have adopted the indeterminate sentence under which the criminal is not sentenced for a fixed term, but only until his conduct shows that he is fit for liberty.

**114. Places of Imprisonment.** Places of imprisonment comprise lock-ups or police stations, jails, work-houses, reformatories, and prisons or penitentiaries. Lock-ups and police stations are used for the detention of arrested persons pending immediate trial before the proper magistrate. Jails are county institutions intended primarily for the detention of persons awaiting trial; but they are often used for the punishment of offenders sentenced to a short term of imprisonment, notwithstanding this practice in effect provides a school for crime.<sup>1</sup> Work-houses are local institutions used for the punishment of minor offenses; reformatories are intermediate prisons for the punishment of juvenile offenders; and penitentiaries or prisons are provided for the incarceration of convicted felons.

**115. The Treatment of Criminals.** The importance of classifying criminals with a view to their possible reformation is now generally recognized; and accordingly **The marking system** prisoners are generally classed as juvenile offenders, reformatory cases, and incorrigibles. With the object of encouraging industry and good conduct within the prison, most penitentiaries have a system of marks and grades, promotion from a lower to a higher grade depending upon the number of marks earned. Obedience to the orders of officers and the rules of the prison, performance of assigned tasks, and upright conduct form the basis of the marking system; and by good behavior it is possible for the convict to shorten materially his term of imprisonment.

<sup>1</sup> Owing to the fact that prisoners of all grades and ages are often placed together with no provision for useful employment.

**116. The Prevention of Crime.** Inasmuch as the majority of convicts are unskilled laborers, the best organized penal institutions provide trade and technical education for their inmates, with the object of qualifying them for useful employment upon their discharge. In many other ways society now aims at the prevention of crime instead of relying solely upon repressive measures. These preventive methods include careful registration of criminals by the Bertillon method; employment bureaus to secure work for discharged prisoners; increased efficiency of police systems; improved systems of poor relief; checks upon the hereditary supply of criminal stock; the removal of the social causes of crime (as defective economic conditions); and finally, the improvement and adaptation of educational systems, especially by enlarging the facilities for trade and technical training.

**117. Treatment of Juvenile Offenders.** In recent years there has been great progress in the social treatment of juvenile offenders, most of whom need training rather than punishment. Special provision is now made for the care of such cases in industrial and reform schools, and in well-organized reformatories. The reformatories at Westboro, Massachusetts, Lansing, Michigan, and Lancaster, Ohio, are model institutions of their class; and excellent results have been obtained by means of the industrial and academic education which they supply, aided by the principle of the indeterminate sentence.

The latest development in the treatment of youthful offenders is the establishment of special courts for the trial of juvenile delinquents, the judges commonly having wide discretion over the disposal of such cases. Special probation officers are also employed for the supervision of delinquent, dependent, and neglected children in the numerous cases where institutional treatment does not seem expedient. These officers act under the direction of the juvenile court in the commonwealths having this institution.





ARMORY OF THE STATE MILITIA  
At Medford, Mass.



POLICE PROTECTION DURING A STRIKE

A number of wagons, each guarded by a squad of policemen. The occasion was a teamster's strike in a large city.





#### A LOCK IN THE SAULT STE. MARIE SHIP CANAL

The canal connects Lake Superior with St. Mary's River and Lake Huron. It is about three miles in length and has two locks. The depth of water is sufficient to allow the passage of vessels of about 12,000 tons displacement.



*Courtesy, Commissioner of Bridges.*

#### A PART OF THE QUEENSBORO BRIDGE, NEW YORK

This bridge connects Manhattan Borough and Queen's Borough. The total cost of real estate and construction was \$17,000,000. The bridge is of the cantilever type, with three spans, of which the longest is 1182 feet. The total length of the bridge, including approaches, is 7449 feet. The bridge carries roadways, trolley tracks, and elevated railway tracks. Its clear height above high water is 135 feet. The flag poles on the towers are 406 feet above the river.

## GENERAL REFERENCES

- Baldwin, Simeon E., *Modern Political Institutions* (1895), chs. v, ix.  
Beard, C. A., *American Government and Politics* (1910), pp. 568-577.  
Black, H. C., *Constitutional Law* (1897), ch. xx.  
Dugdale, R. L., *The Jukes* (1902).  
Ellis, Havelock, *The Criminal* (1907).  
Hall, A. C., *Crime in its Relation to Social Progress* (1902).  
Henderson, C. R., *Dependent, Defective, and Delinquent Classes* (1906), pp. 215-338.  
McClain, E., *Constitutional Law* (1905), ch. XLII.  
Wines, F. H., *Punishment and Reformation* (1895).  
Wright, Carroll D., *Practical Sociology* (1899), chs. XXI-XXII.

## QUESTIONS AND EXERCISES

1. Are there any provisions in your State constitution concerning crimes or punishment?
2. What is a felony under the laws of your State? Name several crimes which are felonies.
3. In your community what court has jurisdiction over misdemeanors? Over felonies?
4. Describe the first steps in a criminal action under the laws of your commonwealth.
5. How is the grand jury chosen? Of how many men does it consist? Describe the process of rendering an indictment or presentment.
6. Describe the remaining steps in a criminal action in your county (arraignment, trial, judgment).
7. Explain the importance of jury trial to one accused of crime.
8. What is the method of selecting petit jurors in your county? Can you suggest a better method?
9. Visit the courthouse and observe the steps in a criminal trial. Write a report of the proceedings.
10. Enumerate the safeguards in your State constitution designed to secure the rights of accused persons.
11. Is the principle of the indeterminate sentence applied in your State?
12. Are persons convicted of a felony permitted to vote in your State?
13. Give arguments for and against capital punishment.
14. Classify the various places of imprisonment in your State. What class of offenders is sent to each?
15. What industries are carried on in your State penitentiary? What arguments are urged against prison labor?
16. Is there a reformatory in your State for youthful offenders? If so, write a brief account of it.
17. What industrial or reform schools are there in your State? Are they accomplishing good results?
18. Is there a juvenile court in your community? If so, describe its work, and that of the probation officers.
19. Prepare a brief report on the treatment of criminals in colonial times. (McMaster, *History of the American People*, I, pp. 93-102.)



## CHAPTER IX

### CONTROL OF ECONOMIC INTERESTS

**118. Economic Functions of Government.** An economic service or function is one which relates to the material welfare of society, affecting in some way the production, exchange, distribution, or consumption of wealth. Thus the economic functions of government are directed chiefly toward increasing the total amount of wealth produced, facilitating its exchange, or providing for its more equitable distribution among the various members of society.

To accomplish these aims, State governments perform certain fundamental services without which material progress would be impossible, — such as the maintenance of order, and the protection of individual freedom, private property, and contract rights. These primary services fulfilled, other imperative needs arise: the land and other natural resources must be conserved; labor and capital must be protected and regulated in the public interest; agriculture and commerce are to be promoted. Hence the most important economic activities of State governments appertain chiefly to land, labor, and capital — the three great sources of wealth — and to commerce, or the exchange of commodities.

**119. Lands.** Nearly all of the States at some period in their history owned large tracts of land, most of which has been sold to settlers at a nominal figure, or sacrificed to obtain immediate funds for educational purposes, or given as bounties to canal and railroad companies. A few commonwealths, notably New York, still own considerable forests; several have important State reservations — such as Valley Forge in Pennsylvania, and

Economic  
activities  
of State  
governments

Public  
lands

Niagara Falls in New York; while others retain lands for use in the operation of commercial or irrigation canals. Further, all States own the land occupied by their public buildings and institutions.

Over private lands within its borders each commonwealth exercises jurisdiction by virtue of its police power. Such lands are subject to taxation, and also to <sup>Private</sup> the exercise of the right of eminent domain; that <sup>lands</sup> is, appropriation for public purposes upon compensation to the owner. The State also has the right of escheat, that is, the right to take private lands in the case of persons who die leaving no lawful heirs.

**120. Forests, Game, and Fish.** Within recent years both the State and federal governments have realized the necessity of prompt action in order to prevent <sup>Exhaustion</sup> entire destruction of the country's forests. At <sup>of timber</sup> the present rate of cutting, the domestic timber <sup>supply</sup> supply will soon be exhausted; and the destruction of the forests so affects the drainage of the earth as greatly to increase the danger of floods and freshets.

An important step toward a policy of scientific forestry was taken by the federal government in 1905 when the national forest reserves — in area nearly 100,000,000 <sup>Scientific</sup> acres — were transferred from the Interior De- <sup>forestry</sup> partment to that of Agriculture. Recently, too, a number of the States, following the example of New York, have taken active measures looking toward the preservation of their forests. Many commonwealths now have officers (usually called forest commissioners) charged with the care of forest interests. Local and State forestry associations have been formed in twenty commonwealths, and in nearly all an Arbor Day is set aside each year to encourage the planting and care of trees.

For the preservation of fish and game, laws have been enacted providing for close seasons, that is, sea- <sup>Fish and</sup> sons within which fish or game cannot be taken <sup>game laws</sup>

or killed. Such laws also generally restrict the manner of hunting certain game and of catching fish. The administration of fish and game laws is ordinarily entrusted to one or more commissioners, who are aided in their work by a number of wardens.

**121. Agriculture and Agricultural Interests.** For the general promotion of agricultural interests there is commonly a department of agriculture in charge of a commissioner, or a State agricultural board. The duties of this department ordinarily include inspection of live stock with a view of preventing contagious disease, administration of State laws relative to the sale of adulterated food and dairy products, holding of farmers' institutes and annual State fairs, recommendation of desirable legislation, and other miscellaneous duties.

**State agricultural department** Education in scientific agriculture has been greatly aided by the establishment of agricultural and mechanical colleges, which in many commonwealths form an integral part of the State university. Agricultural experiment stations have also been established, which, like the State agricultural colleges, are subsidized by the federal government.

**122. Labor and Factory Laws.** The adoption of regulations concerning the employment of labor and the conditions in factories constitutes another important economic function of State governments. In thirty-two commonwealths general supervision of labor interests is entrusted to a State labor bureau, at the head of which is a commissioner aided by several deputies. One of the most important duties of these bureaus is the collection of statistics bearing upon industrial education and the economic condition of the laboring class.<sup>1</sup>

In many commonwealths, factory inspectors visit and inspect factories, workshops, and mercantile establishments,

<sup>1</sup> A similar service is performed on a more extensive scale by the federal Department of Labor (Section 282).





*(By courtesy of the Forest Service, Washington, D. C.)*

The complete destruction of a forest by fire, Port Townsend, Wash. The trees planted to replace those burned grow to the height of a man in about four years. Many years must elapse before a forest can be restored.



Brush piles ready for burning, Bitter-Root National Forest, Mont. Scientific methods prevent forest fires.





*(By courtesy of the Review of Reviews Company)*

#### MINNESOTA AGRICULTURAL EXPERIMENT STATION

Crop nursery near St. Paul. Here new varieties of cereals are originated, and old ones improved. The small erect bundles of grain in the foreground are each of a distinct variety of wheat. These bundles have been carefully harvested and tied up with cloth to prevent loss of grain. An exact account is taken of the number of heads, weight of yield, etc., and seed from the best plants is saved for use the next year.



#### THE DAIRY CAR OF THE "BETTER FARMING SPECIAL"

Other cars are devoted to crops, forestry, etc. The train is equipped by the Boston and Albany Railroad with the coöperation of the Massachusetts Agricultural College. It is periodically sent through the agricultural districts and lectures are delivered to audiences of farmers.



and enforce the State laws concerning them. Factory legislation has three principal objects: (1) The protection of the health of employees, by securing proper ventilation, heating, lighting, and good sanitary conditions generally. (2) The prevention of accidents, by requiring guards on dangerous machinery, elevators, and hoistways; also by requiring the inspection of boilers, and the construction of suitable exits and fire-escapes. (3) The regulation of the conditions of employment, especially in the case of women and children, by restricting the hours of labor, prescribing intervals of rest during the working-day, prohibiting night work, and fixing a minimum age limit for the employment of children — usually fourteen years.

Objects of  
factory  
legislation

Many commonwealths have provided that eight hours shall constitute a day's work for all laborers employed by the State or local governments. In private industry the hours of labor have been generally reduced from twelve or fourteen hours in the early part of the nineteenth century to eight or ten at the present time; and one of the principal aims of labor unions is to secure universal acceptance of the eight-hour day.

Length of  
labor day

To aid in the settlement of industrial disputes, many States have established boards of arbitration. These generally consist of three or five members appointed by the governor, employers and employees being equally represented. When strikes or lock-outs occur, it is the duty of these boards to investigate the situation, and if possible to bring about an amicable settlement. They may also arbitrate the controversy, providing both parties consent.

Boards of  
arbitration

In many commonwealths free public employment offices are maintained by State or local authority to aid the unemployed in finding work, and also as a means of checking the abuses of private employment bureaus.

Public  
employment  
bureaus



### 123. Characteristics and Development of Corporations.

Capital is the third great agency in the production of wealth;

**Character-  
istics** and perhaps the most important economic function of State governments is exercised through the power to create and regulate corporations, the capitalistic organizations which control the greater part of the commerce and manufactures of the country. A corporation may be defined as a legal person, distinct from the members who comprise it, having a special name, and the capacity of acting for various purposes as a single individual. The corporation is immortal in the legal sense that it can be made capable of indefinite duration; it may sue and be sued in its corporate name; it may acquire property, and — under certain limitations — borrow money; and finally, it has the power to elect officers and to adopt by-laws for the detailed regulation of its business.

The private corporation is of ancient origin, but its remarkable development in the nineteenth century may be traced to the industrial revolution of the eighteenth. That revolution was characterized by the change from hand to machine labor, from production on a small scale to the factory system. The partnership was at first employed as a means of obtaining the larger capital demanded by the new industrial methods, and this continued the common form of business association until the middle of the nineteenth century. But even the partnership was inadequate for the colossal industrial development of the age of steam and electricity; and hence about the middle of the nineteenth century, the corporation came into general use for larger industrial enterprises.

The stock of the corporation can be distributed among hundreds or thousands of members, thus accumulating amounts of capital impossible in the case of a partnership. Then, too, the shareholders of the corporation are usually not liable for corporation debts beyond the amount of their stock, whereas partners are

**Advantages**

jointly and severally liable for firm debts to the full extent of their property. Furthermore, corporate liability cannot be created by the acts of individual members, but only by the directors or officers duly authorized; whereas each partner ordinarily has authority to bind the firm by his acts if within the scope of the partnership business. Finally, the partnership is ordinarily terminated by the death of one of its members, the contrary being true of the corporation. These and other advantages have given the corporation its dominating position in modern industrial life.

**124. Organization and Control of Corporations.** In general, the powers, duties, and liabilities of the corporation are determined by its charter, an instrument ordinarily granted by the State government under a **General and special acts** general act, although a few commonwealths still permit the granting of charters by special acts. In the case of a private corporation the charter once granted is in the nature of a contract, and cannot afterwards be materially altered or annulled unless this right has been previously reserved.

In the organization of private corporations a distinction is commonly made between those formed for profit and those not for profit. In most States, corporations for profit are organized under a general law applicable **Method of organization** alike to all such corporations; but frequently the general law does not apply to certain classes of corporations, such as banks, insurance companies, and railroads, which are chartered under laws specially adapted to each of these forms of industry. The general corporation laws ordinarily provide that persons who wish to form a corporation must apply to the secretary of state for a charter, which will be duly issued upon compliance with the legal requirements.

Corporations are commonly required to make annual reports to the secretary of state, showing the **Control** amount of their capital stock, volume of business, and indebtedness; and they must also submit to such other requirements and regulations as the legislature may

from time to time deem necessary in the exercise of its police and taxing powers.

**125. Regulation of Banks, Insurance Companies, and Railroads.** A considerable degree of State control is customary in the case of banks, insurance companies, and railroads, since these corporations come into the closest relations with the people and vitally affect the public welfare. Banks are commonly organized under a general banking law, which in many States must be first submitted to the voters for approval. Such laws regulate in considerable detail the management of banks, with the object of protecting depositors and the public.

Insurance companies are also subject to a considerable degree of supervision, frequently exercised by a State insurance commissioner. As in the case of banks, provision is ordinarily made for the examination of such companies, for annual reports showing in detail the business for the preceding year, and for the maintenance of a reserve fund bearing a certain ratio to the amount of insurance in force.

As quasi-public corporations, railroads are subject to a large degree of governmental supervision. Their business which lies wholly within the boundaries of the commonwealth may be regulated by the State government, interstate traffic being subject to federal control. For their supervision, many commonwealths have established boards of railway commissioners, charged with the special duty of protecting the public and shippers. State railway legislation has sought especially to check combinations of parallel or competing lines (the object of such combination being to eliminate competition); and also to prevent discriminating rates in favor of certain shippers, unreasonable charges for services, and overcapitalization of roads with the consequent burden upon rates.

**126. Industrial Combinations.** The simplest form of combination among producers consists of "friendly agree-



ments" designed to check competition by establishing a uniform selling price, or by limiting the amount of the product. In times past these agreements were often violated, and soon a second and more formal plan of organization was developed, known as the "pool." This was a formal agreement to maintain prices through a division of the territory, business, or earnings. For many years pooling was common in the railway business, the traffic or revenues being divided among the various roads according to certain fixed ratios. These agreements were not enforceable at law, since American courts have uniformly held pooling contracts to be in restraint of trade and against public policy; and the difficulty of enforcing such arrangements, together with the prohibition of railway pooling by the federal Interstate Commerce Act of 1887, ultimately led to the adoption of a new form of combination.

This third form of combination is known as the trust. Originally, trusts were formed by having competitive corporations place their stock in the hands of a board of trustees, who were thus enabled to manage the business of the several corporations in such a way as to secure complete harmony of action. The original stockholders in the corporation were given trust certificates in exchange for their stock, and dividends were paid on the basis of these certificates.

The courts finally held the trust form of combination illegal, declaring that corporations had no power to surrender control of their stock to a board of trustees. Further, most of the States as well as the federal government passed anti-trust laws. But the effect of judicial decisions, as well as of hostile legislation, was merely to cause a change in the form of combination. In some cases, as with the Whiskey and Sugar Trusts, a single immense corporation was formed which undertook to secure a monopoly by buying out numerous smaller concerns. In other cases, as with the Standard Oil Company, those who directed its

policy obtained a majority of the stock in several large corporations, harmony of action being insured by having the same men in control of the affairs of each separate corporation.

At the present time the common form of combination is that of one great corporation owning many separate plants. **Capitalistic monopolies** The rapid formation of such combinations within the last twenty years constitutes the most striking fact in the economic world. Since their formation is largely due to the influence of modern capitalistic production, these combinations are usually called capitalistic monopolies. The chief advantages claimed for the great industrial combinations are that they avoid the wastes of excessive competition, and secure the economies of large-scale production. The principal objections urged against them are that they crush out competition, often by unfair methods, and secure a monopoly control which enables them to charge monopoly prices. Another objection is that their capital is often excessive, thus necessitating high prices to the consumer in order that dividends may be paid upon watered stock. Widely divergent views are held as to the course which government should take concerning capitalistic monopolies. Many persons favor radical action which will entirely destroy them; while others believe that trusts should be so regulated by law that their good features may be retained, and their evil practices abolished. It is generally conceded that effective action in this direction is only possible through the agency of the federal government, which has power to regulate all corporations engaged in foreign or interstate commerce.

**Road-building and maintenance** 127. **Transportation — Roads and Bridges.** Since in modern times commerce is essentially a matter of transportation, the construction and maintenance of roads and bridges is one of the most important functions exercised under State authority. Supervision of road construction is commonly entrusted to lo-

cally elected county or township commissioners. The township commissioners ordinarily have authority to divide the township into several road districts, in each of which an overseer is chosen who acts under the authority of the township officers. It is the duty of the commissioners to keep in repair the existing roads and bridges, and to construct new ones upon the petition of a certain number of freeholders. Under the power of eminent domain, private property may be appropriated for such construction upon making proper compensation to the owner. A part of the cost of construction is commonly assessed upon the abutting land-owners, the remainder being paid out of the local treasury. The cost of maintenance is commonly borne in the same way; and many States still permit the road-tax to be paid by a certain number of days' labor on the road — a policy scarcely conducive to expert construction.

The inferior results of local road-making have led a number of commonwealths to coöperate in this work by creating the office of State commissioner, charged with general supervision of road construction throughout the commonwealth. It is the duty of the commissioner to pass upon applications from local commissioners for new roads, also to furnish plans and award contracts, the cost being apportioned between the State and the local district.

Outside of the cities the construction of bridges is generally left to the county commissioners, subject to the requirement of the federal government that no bridge shall be built across a navigable river unless its construction is first approved by the Secretary of War.

**128. Canals and River Navigation.** Nearly all the canals in the country have been constructed by the State governments, or by companies chartered by them. The period of canal construction dates from 1825 (when the Erie Canal was completed) to about 1840, at



which time attention was diverted to railroad building. The construction of canals contributed greatly to the early development of the commonwealths in which they were located, and for some time their competition served as a check upon railroad rates; but with few exceptions they have now been abandoned, the railway having proved too formidable a competitor.

General supervision of canals is ordinarily exercised by the State board of public works, or canal board. The executive officer in direct charge of the system is the superintendent of public works or the State engineer. This officer with his assistants looks after necessary repairs, enforces the rules of navigation, and investigates improvement projects.

River navigation is also generally subject to State supervision under police regulations designed to safeguard the public. Enforcement of these regulations is sometimes entrusted to the State superintendent of public works.

**129. Weights and Measures.** Commerce is greatly aided by the use of accurate and uniform standards of value and of weights and measures. The establishment and regulation of the standard of value is an exclusive function of the federal government. While Congress may likewise exercise exclusive authority over the subject of weights and measures, it has not as yet done so, and hence the establishment of these standards is a State function. In 1836 Congress instructed the Secretary of the Treasury to deliver to the governors of the respective States complete sets of the standards of weights and measures used in the federal custom-house, thus making possible a uniform system. The State standards are generally in the custody of a State sealer or superintendent of weights and measures. From this officer copies may be obtained for the use of county sealers, who in turn furnish copies for the use of local officials.

**130. Trade-marks.** In order to encourage the production of a high quality of goods and to protect manufacturers against dishonest competition, the State governments grant proprietary rights in the use <sup>Purpose</sup> of private brands, labels, and trade-marks. When such brands or marks are regularly advertised by one manufacturer, they cannot be legally used by another, and thus both the manufacturer and the consumer are protected.

### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), pp. 721-742.  
Bullock, C. J., *Introduction to the Study of Economics* (1900), chs. XI, XIV.  
Jenks, J. W., *The Trust Problem* (1909).  
Johnson, Emory R., *American Railway Transportation* (1909).  
Nearing, Scott, and Watson, F. D., *Economics* (1908), pp. 60-309.

### QUESTIONS AND EXERCISES

1. Prepare a report on the policy of your State in disposing of its public lands.
2. What public lands are now owned by your State? Have any steps been taken toward forest preservation?
3. Is your State department of agriculture in charge of a commissioner or board? Examine the last report of this department, and write a short paper upon its work.
4. Who is at the head of your State labor bureau? Examine the report of this department and explain the functions performed.
5. Prepare a report upon the factory legislation in force in your State.
6. Is there a State board of arbitration in your commonwealth? Has it been successful in settling industrial disputes?
7. What strikes occurred in your State last year? What percentage of these were successful? (See report of Bureau of Labor.)
8. Is there a free public employment office in your community? What work does it perform?
9. How are private corporations chartered in your commonwealth? May the legislature modify the charter?
10. What is a trust? Outline the law of your State concerning trusts.
11. Prepare a report showing (a) the wastes of excessive competition, and (b) the advantages of large-scale production. (Jenks, J. W., *The Trust Problem*.)
12. Name several partnerships in your community; several corporations. Name five of the largest industrial combinations (commonly called trusts) in the United States.
13. Who has charge of road-making in your commonwealth? Does the State supervise road construction or bear part of the cost?

## CHAPTER X

### PUBLIC EDUCATION

**131. Early and Modern Education.** Between early and modern systems of education two striking differences appear. From the first century A.D. down to the very beginning of the nineteenth century, education was almost universally controlled by the church, and was confined to the wealthier classes; while to-day education is generally recognized as a function of the State, and its benefits are freely offered to all children, the expense being borne by the community. Nowhere has this modern conception of free public education been more fully realized than in the United States.

**132. State Control of Education.** During our colonial history, schools and colleges were fostered by the individual colonies, and hence upon the adoption of the federal constitution, control of public instruction was one of the functions retained by the State governments. It will be seen later that the federal government has aided the cause of education in a substantial manner; but the actual control and maintenance of the public schools is a State, not a federal, function. State educational systems vary widely in character, but generally include: (1) a system of elementary or common schools; (2) a system of secondary or high schools; and (3), in nearly all of the commonwealths, a State university.

**133. Elementary or Common Schools.** Elementary or common schools are found in every section of the United States, however sparsely inhabited. Elementary education ordinarily includes the first eight grades of the course of study, occupying the child from



the sixth to the fourteenth year. This period is frequently subdivided into the primary department, comprising the first four grades; the intermediate department, including the fifth and sixth grades; and the grammar department, or seventh and eighth grades. Where elementary schools are fully graded, there is generally a separate room for each of the eight grades, promotions from one room to another being an annual or semi-annual event.

The course of study in the elementary schools ordinarily includes reading, writing, arithmetic, spelling, language, grammar, geography, and history; and in progressive school systems, instruction is also provided in natural science, drawing, vocal music, physical culture, and manual training.

Public interest in educational affairs has usually centered upon the elementary schools, owing to the fact that nearly ninety per cent of the entire number of pupils are enrolled in the first eight grades. As training schools for the duties of citizenship our common schools are probably unequaled by those of any other country. Two of the great advantages justly claimed for the American public-school system are: first, the development of individual character by massing children from all walks of life in common association, thereby compelling each child to take the rough-and-tumble of life in competition with every other; and second, the Americanizing influence upon foreigners whose children in the public schools learn our language and the principles of American institutions, thus making less difficult the problem of assimilation.

**134. Educational Progress.** At the present time there are enrolled in the common schools of the United States about 21,000,000 pupils, or twenty per cent of our total population. Within the last thirty years the number of schoolhouses as well as the revenues for school purposes have more than doubled; the number of days attended by pupils has increased one fourth; while the percentage

Course  
of study

Advantages  
of public-  
school  
training

of illiterates has decreased from seventeen per cent in 1880 to six per cent at the present time.

**135. High School or Secondary Education.** Secondary education (comprising the ninth, tenth, eleventh, and twelfth years of the course of instruction) is carried on chiefly in public high schools, which in their present form are a product of the nineteenth century. Previous to 1850, only eighteen public high schools had been established in the United States. Since 1850, public high schools have multiplied rapidly, until at present the total number of such institutions is 14,000, with 2,000,000 students. Several States, including Massachusetts, Maryland, Minnesota, and California, require each township to maintain a free public high school. Elsewhere the establishment of these institutions is left to the discretion of the local school districts, although the constitutions of at least half the commonwealths mention high schools as special subjects of legislative and general interest.

The high-school course ordinarily comprises four years, following eight years of work in the elementary school; or a course of three years only, in communities which have adopted the junior high school plan of organization. Most public high schools receive and educate both sexes in the same classrooms and under the same teachers, although a few of the larger cities provide separate high schools for each sex. The modern high school is sometimes called the "people's college," and in range of studies and thoroughness of work, good high schools of to-day doubtless surpass even the best colleges of fifty years ago. The best high schools now serve the dual function of fitting students for the everyday duties of life, and of preparing their graduates to meet university entrance requirements.

**136. Colleges and Universities.** The five hundred colleges and universities of the United States may be grouped into three classes. (1) Non-sectarian institutions chartered

by the State governments as private corporations, such as Harvard, Cornell, and Leland Stanford. (2) Denominational institutions likewise chartered as private corporations, but which are under ecclesiastical **Classes** control or supervision, as Georgetown and Wesleyan universities. (3) Universities and colleges established by the State governments as public institutions and directly subject to State control, as the State universities of Michigan, Wisconsin, and California. The foremost colleges and universities of the country are included in the first or third classes, being non-sectarian in character; but in numbers the institutions under church control are in the majority.

137. **The State University.** In the earlier period of our history, nearly all the institutions of higher education were chartered as private corporations, although often receiving aid from the State in the form of land **Origin** or money, or exemption from taxation. With the growth of the democratic spirit of the nineteenth century, considerable opposition was manifested toward granting public aid to institutions which were subject not to public control, but to that of some denomination or sect; and the belief that the State should control higher as well as elementary education led to the establishment of the State universities. In this movement the Southern States took the lead, their example being soon afterwards followed by Indiana (1820), and Michigan (1837). East of the Alleghanies the private institutions had become so firmly established as to leave no place for State universities; <sup>1</sup> but "the establishment of State universities in the West and South came as a matter of course, and has kept pace with the stars on the flag."

The twenty-seven States formed out of the public lands received from the federal government a donation generally consisting of two complete townships **Federal aid** (seventy-two square miles of land) for the support of higher

<sup>1</sup> Maine, Vermont, and Virginia have State universities.



education. Again in 1862 the State universities received substantial federal aid through the enactment by Congress of the Morrill Act granting to each State in the Union, and to each State afterwards admitted, 30,000 acres of land for each Representative and Senator in Congress. The income of the funds arising from the sale of this land was to form a permanent endowment for the support of higher institutions of learning in which technical and agricultural branches should be taught. Among the State universities owing their origin to the Morrill Act are those of California, Illinois, Maine, Minnesota, Nebraska, Nevada, West Virginia, and Wyoming. By acts passed in 1890 and in 1907, the federal government gave further aid to agricultural and mechanical education by granting an annual appropriation (now \$50,000) to each State maintaining an institution of this character.

In all, forty commonwealths maintain State universities, and these enroll about one third of the entire number of university students. Many of the largest universities of the country are State institutions. All are co-educational, and in all tuition is practically free to residents of the State. The income is derived in part from the proceeds of the federal land grants, but chiefly from the "mill tax," or general appropriation authorized by the State legislature.

**138. Administration of Public Schools.** The organization of the common-school system varies widely among the different States, and often there is great diversity even in different parts of the same State. This is owing to the fact that in its origin school administration was exceedingly local in character, and only gradually is it becoming unified through the exercise of State authority. The organization and control of the public schools is generally a function either of the school district, the township, the city, or the county. Accordingly there are four distinct types of school administration: the district, township, city, and county systems. Administration of the schools by each



A modern township school-building as provided under the "centralization plan."



Pupils of the primary and grammar grades as they go to school in Gustavus Township, Trumbull County, Ohio. A stage is required to stop at each child's home; and if the pupil is not ready to go to school he is marked "tardy."



Typical schoolhouse in irrigated district near Billings, Mont. Schools are among the first buildings erected on newly opened lands. They are so distributed that no child is out of reach. The sheds at the left are for the pupils' ponies.





*(By courtesy of the Superintendent of Public Schools, New York City)*

PUBLIC SCHOOL 165, NEW YORK CITY



*(By courtesy of the Superintendent of Schools, Philadelphia)*

THE GROVER CLEVELAND SCHOOL, PHILADELPHIA

TYPES OF MODERN CITY SCHOOLS



of these local areas is at all times subject to modification and control by the paramount authority of the State government.

**139. The District System.** The district system had its origin in colonial New England, where each little settlement formed a natural nucleus for school administration. As the population moved westward, the same district system was created, and in some form still prevails in the great majority of the States. The district is the smallest unit of school administration, and is the most democratic feature of our political organization. In the South it is usually a subdivision of the county; elsewhere of the town or township. Generally the voters within the district elect the school trustees and levy the school tax, although in some States these functions are performed by the county. The great merit of the district system in the early period of our history was that it brought the public schools easily within the reach of all; but under present conditions this system is often wasteful and inefficient, owing to the small size of the administrative unit. The present tendency is to replace the district by a larger unit of organization, such as the township.<sup>1</sup>

Origin and  
character-  
istics

**140. The Township System.** Under the township system all schools within the boundaries of the township are placed under the control of a single board chosen by the voters. By this plan there are fewer schools, but these are better graded and equipped; and with the expenditure of less money better salaries can be paid, and better teachers secured. In six commonwealths the plan of township organization has been made compulsory, while in at least twenty others there is permissive legislation providing for this or some similar form of centralization.

Characteris-  
tic features

The township system tends to create two distinct classes of schools: first, centralized rural schools conveniently

<sup>1</sup> In Maine, New Hampshire, Vermont, Massachusetts, New Jersey, and Indiana, the district plan has been entirely superseded by the township system.

located throughout the township, generally graded to a certain extent, and having two or more teachers; and second, township or union high schools, which constitute practically the only means of furnishing secondary education to the children in rural communities.

**Types of schools**

This centralization of rural schools gives rise to the problem of free transportation of pupils. With but three or four schools for the entire township, considerable distances must be traveled by many of the pupils; and this has led many commonwealths to provide free transportation of pupils.

**Transportation of pupils**

**141. City School Systems.** Cities commonly have a system of schools separate from that of the township and county in which they are situated. In other words, the city itself ordinarily constitutes a special school district under general provisions of the school law relating to municipalities, or under special charters granted by the legislature. Great diversity prevails in the organization of schools in the various cities: but universally the administration is entrusted to a board of education (generally chosen by the voters), and a superintendent of schools who is the executive officer of the board. In organization, equipment, and supervision, city schools constitute the most highly developed type of our educational system.

**Organization and control**

**142. The County System.** Throughout the South, the county serves as the basis of school administration. In some States, as in Georgia and Maryland, the county itself constitutes a single school district; in other commonwealths it is generally subdivided for school administration, the smaller divisions being subject to county authority. Accordingly, county officials build schoolhouses, appoint teachers, and levy school taxes — functions which throughout the greater part of the Union are vested in district or township school boards.<sup>1</sup>

**Administration in the South**

<sup>1</sup> Ten States, all Southern except Utah, have the county system. These are Alabama, Florida, Georgia, Louisiana, Mississippi, Maryland, North Carolina, Tennessee, South Carolina, and Utah.

For the supervision of rural schools, most States outside of New England have created the office of county superintendent or school commissioner. County superintendents are generally elected by popular vote, County supervision although in some commonwealths the office is an appointive one.

143. **State Administration of Schools.** State control of education is exercised in two ways: (1) through legislation, by general school laws for the entire State, or by Means of control special laws applying to certain localities; and (2) through State administrative officers, who exercise certain supervisory powers over the public schools.

Each commonwealth has an officer, generally known as the State superintendent of public instruction,<sup>1</sup> who nominally is the head of the public-school system of the State. In a few commonwealths, as in New State superintendent York and Pennsylvania, this officer has important powers, so that he may be regarded as the actual head of the State school system. But in most commonwealths his powers are limited to investigation and admonition, while in several he is little more than a clerk charged with the collection and publication of educational statistics. The State superintendent is elected by popular vote in thirty-five commonwealths, and this fact has tended to make the office political in character, rather than professional. In thirteen other commonwealths the State superintendent is appointed either by the governor, the general assembly, or by the State board of education. The common term is either two or four years.

With few exceptions the commonwealths have State boards of education, whose powers vary as widely as those of the several State superintendents. In State boards of education New York, Massachusetts, and Connecticut, the State board has large powers; elsewhere its duties often are confined to the examination and certification of teachers.

<sup>1</sup> Also called the superintendent or commissioner of common or public schools.



**144. Textbooks.** The adoption of suitable text-books is one of the most important matters connected with school administration. In about half of the States uniform text-books are used throughout the commonwealth, these being chosen either by the State boards of education, or by special text-book commissions. In several others, county uniformity prevails; while in the remainder, the local boards ordinarily select the books to be used in each school district. In practically all the States, text-books are provided free to indigent children. In eleven States they must be furnished free to all pupils, while in seventeen others they may be so furnished at the option of the local board of education, or upon authorization by a local popular vote.

**145. Compulsory Education.** About three fourths of the States have compulsory education laws, which ordinarily require children from eight to fourteen years of age to attend school a certain number of weeks each year. The penalty imposed on parents for neglect of these statutes is a fine ranging from five to fifty dollars. The object of compulsory education laws is to protect the State from ignorance and illiteracy by assuring each child at least the elements of an education. That such laws are fairly effective is shown by the fact that seventy per cent of the total school population (five to eighteen years) is enrolled in the public schools. In cities the enforcement of compulsory educational laws is commonly entrusted to truant officers employed by boards of education.

**146. School Revenues.** The total annual expenditure on common schools in the United States is about \$800,000,000.

**Sources** This revenue is derived from four sources: first, local taxation, which yields 74 per cent of the total; second, State taxation, which furnishes 16 per cent; third, miscellaneous sources, about 7 per cent; and fourth, the income from permanent funds and endowments, which yields about 3 per cent. Local taxation is thus the principal source of school revenue throughout the Union. The amount

of this local tax is generally voted by the legislative authority of the county or township, or by the district board of education. Frequently State laws fix the minimum and maximum amounts to be raised, leaving to local authorities discretion within these limits.

**147. Federal Aid to Public Education.** By the famous land ordinance of 1785, the federal government provided for the reservation of section sixteen in each township for the maintenance of the public schools. Beginning with Ohio in 1802, each of the public-land States accordingly received section sixteen in every township; while each commonwealth admitted after 1848 received two sections. The entire amount turned over to the States was 67,893,918 acres, which, at the traditional price of \$1.25 per acre, gave a perpetual endowment of nearly \$85,000,000. The income from the sale of these lands is apportioned by each State annually upon the basis of the number of children of school age within each local district.

Land grants

**148. Educational Work of the Federal Government.** In 1917 Congress passed the Smith-Hughes Act, which provides federal aid for vocational education. Each State accepting its provisions must establish a State board of control of day-industrial, evening, part-time, continuation, agricultural, and home-making schools. Each State must also agree to appropriate, either through the State or locally, an amount of money equivalent to the sum received from the federal board. The amounts appropriated under this act are to be increased annually until the year 1925-1926, when the States will receive seven million dollars from the national treasury in support of vocational education.

Smith-Hughes Act

In addition to the generous land and money grants in support of the State school systems, the federal government has aided education by the establishment in 1867 of a Bureau of Education. It is the duty of the commissioner at the head of this bureau to collect and publish

Bureau of Education

statistics concerning the schools of the United States; and his office publishes an annual report, as well as monographs of great value. The federal government provides academies at Annapolis and West Point for the education of naval and army officers; maintains schools for the Indians; and supports the Smithsonian Institution, a naval observatory, the geological survey, and other scientific establishments educational in character.

### GENERAL REFERENCES

- Bryce, James, *The American Commonwealth* (1907), II, ch. cv.  
Dexter, E. G., *History of Education in the United States* (1906).  
Draper, A. S., *American Education* (1909).  
Dutton, S. T., and Snedden, David, *The Administration of Public Education in the United States* (1909).  
Hart, A. B., *Actual Government* (1903), ch. xxviii.

### QUESTIONS AND EXERCISES

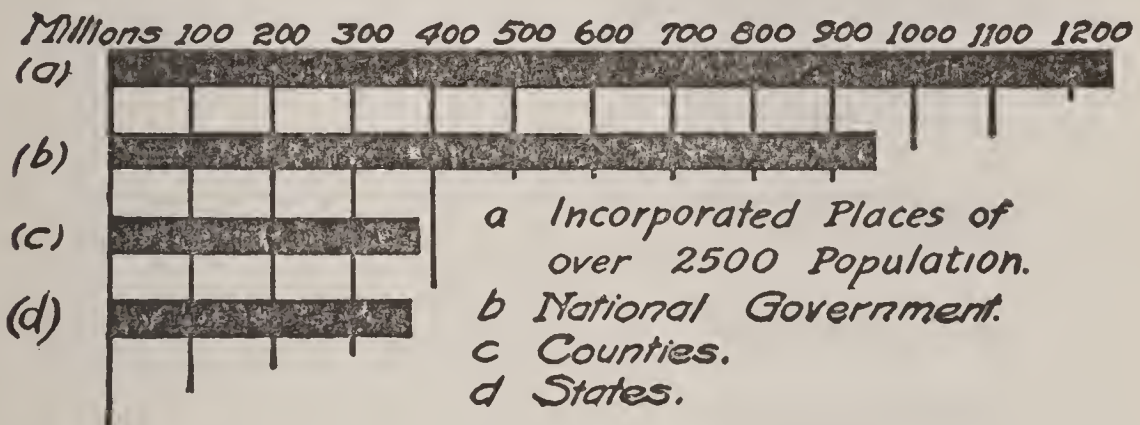
1. How many members comprise your board of education or school trustees? How chosen? Term? Chief powers and duties?
2. What amount was expended by your district last year for the support of its schools? How much per pupil? How does this compare with the per-capita expenditure in other districts of your State?
3. What amount of school revenue is derived from local taxation in your district? What is the rate of the local tax for school purposes?
4. Is there a law in your State compelling children of a certain age to attend school? If so, during what ages is such attendance required and for what term each year?
5. How many high schools in your district? Number of pupils enrolled? Compare the course of study with that outlined in the text.
6. Is there county supervision of rural schools in your commonwealth? How is the county superintendent chosen? How are schools supervised in your district?
7. Are text-books furnished free to all pupils in your district? Give the chief arguments for and against free text-books.
8. Who chooses your State superintendent of instruction (or commissioner of public schools)? What is his term? Describe his duties.
9. Is there a State board of education in your commonwealth? If so, state the number of members, method of appointment, and term.
10. Name the principal universities and colleges in your State. Classify them into three groups as suggested in Section 136.
11. What aid to public education has your State received from the federal government?



## CHAPTER XI

### STATE FINANCE

149. **Expenditures of National, State, and Local Governments.** The expenditures of the national government form about 35 per cent of the total governmental expenditures; those of the State governments about 10 per cent; while local expenditures comprise nearly 55 per cent. In other countries as well as in the United States, the expenditures of local governments form an increasing proportion of the



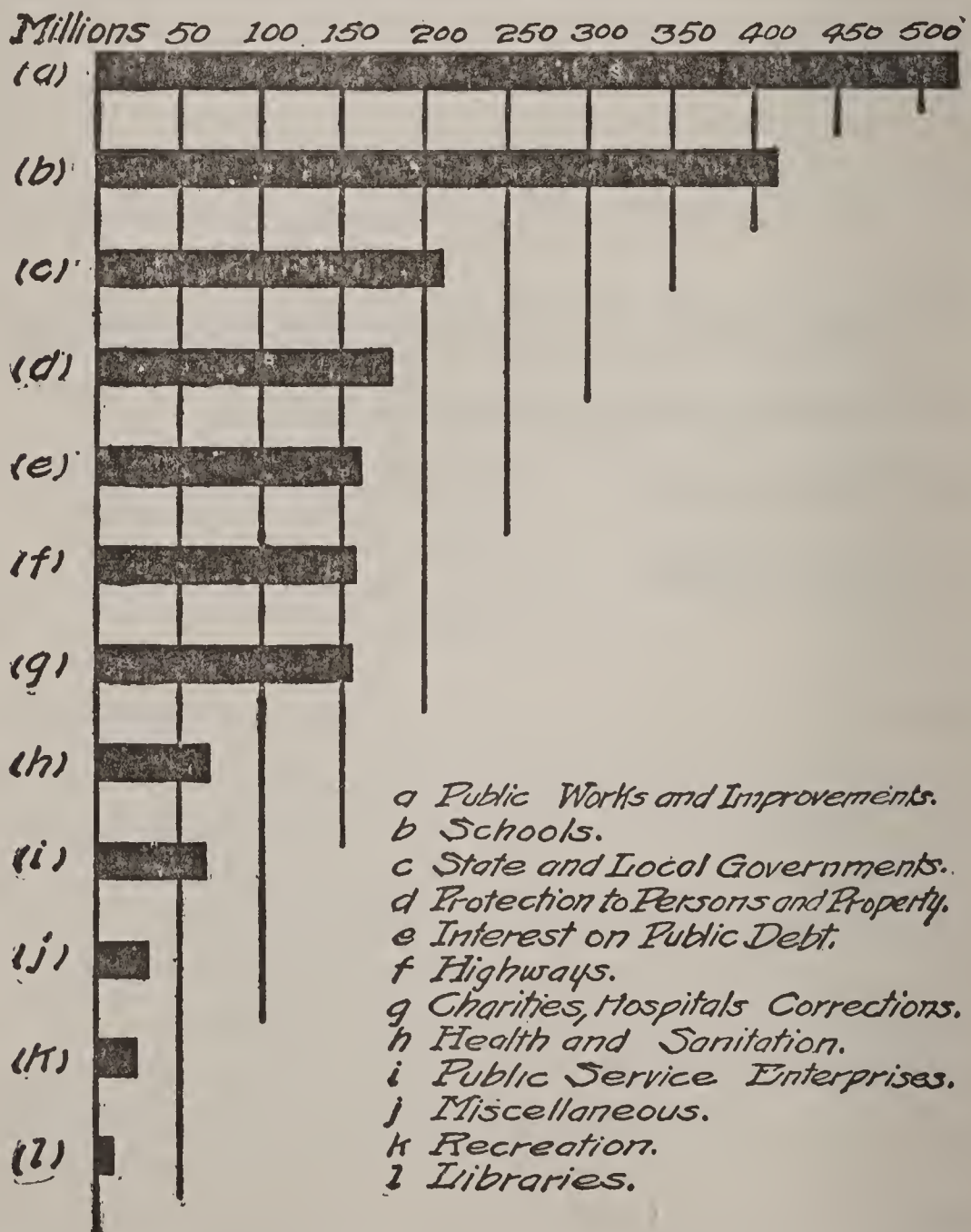
#### EXPENDITURES OF NATIONAL, STATE, AND LOCAL GOVERNMENTS

aggregate governmental expenditure, owing to the number and importance of the functions which local units perform.

150. **State and Local Expenditures.** Under our system of government, the chief expense of administration is borne, not by the State government itself, but by its subdivisions, the counties, townships, and municipalities. Hence a comparatively small part of the total revenue levied and collected under State laws is taken by the commonwealth for its own purposes. The principal expenditures by State governments are for the maintenance of its executive, legislative, and judicial departments; for the

Objects

State militia; for educational, charitable, and penal institutions, as State universities, asylums for the blind and insane, and State prisons; for State buildings and public works; and for interest on the public debt. Upon local governments devolves the heavy expense of poor relief, schools and libraries, roads and bridges. In addition, city governments must provide police and fire protection, construct water-works and sewer systems, pave and light the streets, and maintain public parks and playgrounds.



AMOUNT AND OBJECTS OF STATE AND LOCAL EXPENDITURES

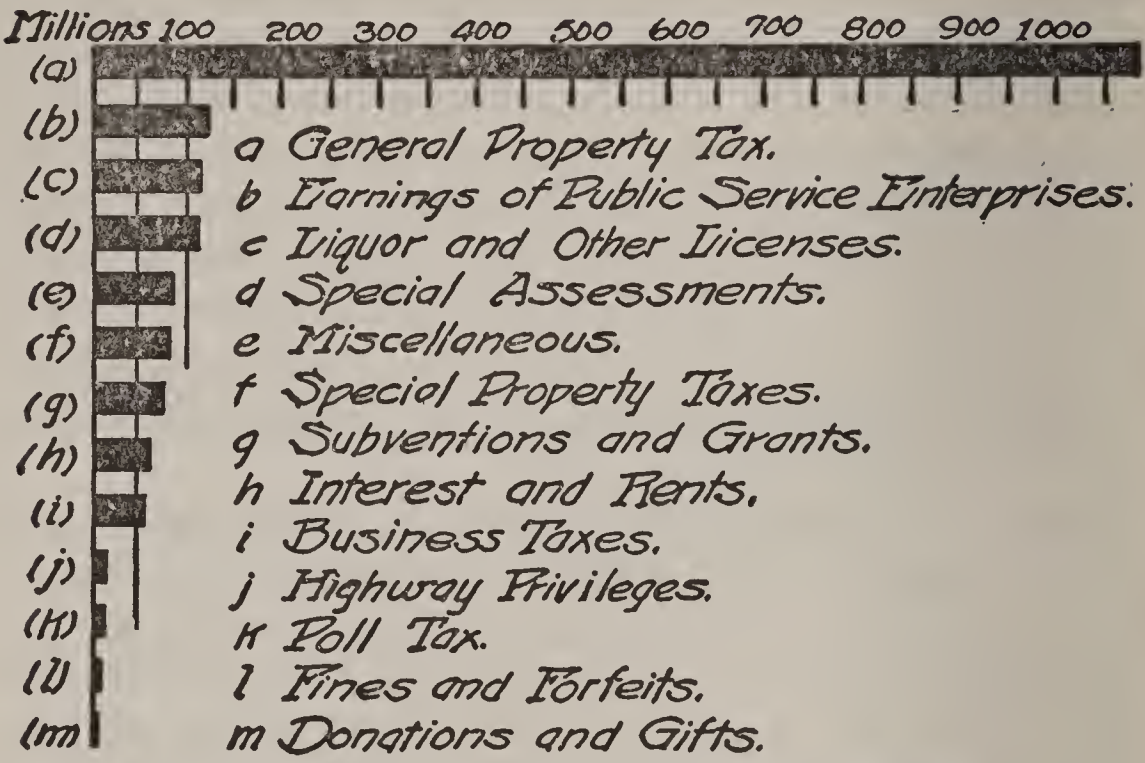
**151. Sources of State Revenue.** Fees and special assessments form a considerable source of State revenue, although relatively much less important than taxation proper. Fees are payments made to cover a part of the total cost of certain governmental activities performed for the benefit of all, but which confer a special benefit upon the individual. For example, there are judicial and legal fees, as court fees, the charges for recording deeds and mortgages, marriage-fees, and the like; administrative fees, including fees for education, when charged; and industrial and commercial fees, as road and canal tolls, harbor dues, and similar charges. **Fees**

Special assessments, also called "betterment" taxes, are closely related to fees. A special assessment has been defined by Professor Seligman as "a compulsory contribution paid once and for all to defray the cost of a specific improvement to property undertaken in the public interest, and levied by the government in proportion to the special benefits accruing to the property owner." For example, when a street is paved, or when water-pipes or sewers are laid, in addition to the general public benefit there is a special benefit to the individual on whose property the improvement abuts; and hence it is customary to levy a special assessment covering part or all of the cost against the owners whose property receives the special benefit. **Special assessments**

Taxes may be defined as "ratable burdens or charges imposed by the legislative power upon persons or property to raise money for public purposes." The justification of taxation is the benefit which governments confer upon individuals. In return for the protection which they afford and the public functions fulfilled, governments may justly take from those benefited, through taxation, the means necessary for their support. Taxes are levied in accordance with the theory of faculty or ability; that is, individuals are required to share the burden of **Taxes**



taxation according to their ability, estimated upon the basis of property or income.



SOURCES OF STATE AND LOCAL REVENUES

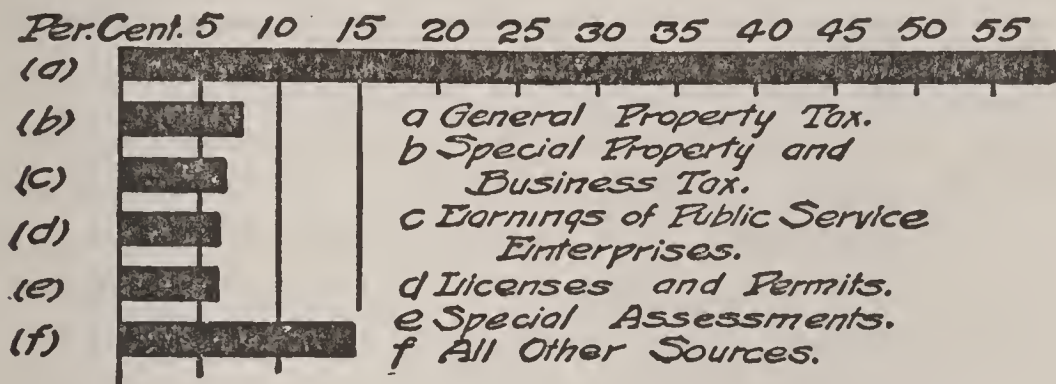
152. Classification of Taxes. Taxes may be classified in various ways, the most common division being into direct and indirect taxes. Direct taxes are those levied immediately upon the persons who are to bear the burden. The law contemplates that the taxpayer shall also be the tax-bearer, and the burden of taxation cannot ordinarily be shifted. The most important direct taxes are the general property tax, mortgage tax, inheritance tax, corporation, poll, and income taxes.

Indirect taxes are those levied upon commodities before they reach the consumer. The taxpayer is not the real tax-bearer, since the tax is ultimately paid by the consumer in the form of a higher price. The principal indirect taxes are customs duties, excise or internal revenue taxes, franchise and license taxes.

The federal government derives its revenue almost exclusively from indirect taxes (customs duties and excises).

State and local revenues are derived chiefly from direct taxes — the general property tax, inheritance, and corporation taxes; together with a relatively small amount from such indirect taxes as franchises and licenses.

Federal  
and State  
revenue



PER CENT SOURCES OF STATE AND LOCAL REVENUES

153. Assessment of General Property Tax. Throughout the Union, about sixty per cent of State and local revenues is derived from the general property tax, which in theory is levied on the entire amount of property, real and personal, owned by taxpayers. The first step in administering the general property tax is that of assessment, or placing a valuation upon taxable property. Local assessors are generally elected by the city, township, or county; and these officers inspect and place a value upon the property of each taxpayer. To aid in this work, taxpayers are ordinarily required to make a declaration under oath of the amount of their personal property, these declarations being subject to correction by the assessors.

Process of  
assessment

Real estate<sup>1</sup> and visible personal property (as furniture, stock in trade, live stock, or other farm capital) can be readily discovered by the assessors; but it has proved exceedingly difficult to reach intangible personal property, as notes, bonds, stocks, and mortgages. Hence the most valuable portion of personal property owned by the wealthiest members of the com-

Difficulties  
in assess-  
ment

<sup>1</sup> Real estate includes both land and the permanent structures resting upon it.



munity largely escapes taxation. In the United States as a whole, probably only one fifth of all personal property is reached under the general property tax. Both real and personal property are assessed far below their true values, real estate being generally rated at from one third to three fourths of its actual value.

**154. Equalization.** The work of local assessors is commonly subject to correction by a county board of equalization, since otherwise property in one section of the county may be assessed at a lower valuation than property in other sections, thus placing an unequal burden upon taxpayers. Furthermore, there is generally a State board of equalization charged with the duty of reviewing and equalizing the valuations within the various counties; for if the property in one county is undervalued as compared with the average rate of valuation throughout the commonwealth, the county escapes to that extent from its just burden of State taxation.

**155. Levy and Collection of Taxes.** After the process of assessment has been finished, the next step is the levy of the tax, or the fixing of the rate. The amount of revenue to be raised is first determined by the proper authority of each taxing area — generally by the board of education for the school district, by the township trustees for the township, by the town-meeting for the town, by the council for the municipality, by the county commissioners for the county, and by the legislature for the State. The rate of taxation is then determined by calculating the ratio between the estimate of necessary funds and the total assessed valuation of taxable property within the district concerned. For example, if the total State expenditures are estimated at three million dollars, and the assessed valuation of all taxable property in the commonwealth is three billion dollars, the rate for State purposes will be the former sum divided by the latter, or one tenth of one per cent, or one mill on the dollar. In the same

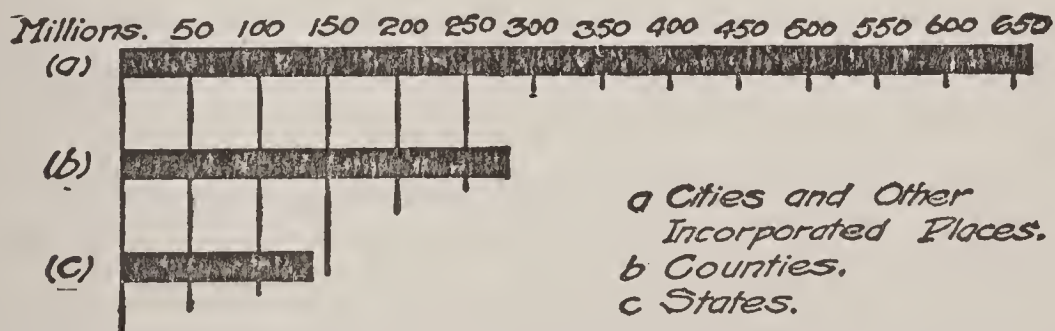


manner the rates for the county, town or township, city, village, or school district are separately determined by finding the ratio of the assessed value of taxable property within the district to the revenue required by the district.

The State auditor certifies the State tax rate to the county auditors or clerks; and the latter add to this the rates authorized for local purposes. The sum of these rates will be the percentage of each tax- <sup>Duties of auditor</sup> payer's property required for the support of State and local government. For example, the rates for taxpayers in rural and urban communities may be as follows: —

RURAL TAXPAYER <sup>1</sup>		URBAN TAXPAYER	
Rate	Mills	Rate	Mills
School.....	4.124	School.....	4.927
Township.....	1.253	Municipal.....	6.64
County.....	3.183	County.....	3.183
State.....	.45	State.....	.45
Total.....	9.01	Total.....	15.2

All taxes are collected by local officers, generally by the township or county treasurer, the township supervisor, the selectman, constable, or special tax collectors. The total amount of State and local taxes collected by these officers is then distributed, the respective shares being turned over to the township (or city) treasurer, the county and the State treasurers. <sup>Collection of taxes</sup>



#### DISTRIBUTION OF GENERAL PROPERTY TAX AMONG STATE AND LOCAL GOVERNMENTS

<sup>1</sup> Thus on property assessed at \$1000, the taxpayer in the rural community would pay \$9.01, while on the same amount of property the urban taxpayer would pay \$15.20.

If a taxpayer fails to pay his tax bill at a specified date, the property upon which the tax is levied is delinquent.

**Delinquent taxes** A penalty in the form of an increased rate is then imposed, and if the bill remains unpaid the property may be sold to satisfy the claim. If sold, the excess over the amount of taxes due is given to the owner; and ordinarily he has the right within a limited period (generally two years) to repurchase the property at the sale price plus certain penalties.

**156. Mortgage Taxes.** In several commonwealths a tax is levied upon capital invested in mortgages. For example, in New York a small tax is levied upon mortgages at the time of record, after which they are exempt from further taxation. The policy which at present prevails in some States of taxing mortgages annually at the local tax rate is both unjust and difficult of enforcement. Such a tax necessarily involves double taxation unless the mortgagor is taxed only on the value of his property less the amount of the mortgage.<sup>1</sup>

**157. Inheritance Taxes.** Inheritance taxes are those imposed upon property inherited from the estate of a deceased person. This form of taxation is extensively used in Great Britain, Switzerland, and Australia; and it also prevails in three fourths of the commonwealths of the Union. In levying inheritance taxes, the practice is to exempt small estates entirely, and frequently to exempt that portion of the estate which passes to direct heirs.

**158. Corporation Tax.** The failure of the general property tax to reach intangible personal property, such as  
**Object** stocks and bonds in the hands of individual owners, has been partially remedied in some commonwealths by a tax levied upon corporations, which from their nature must maintain an official record of property and earnings.

<sup>1</sup> Since the economic result of a mortgage tax is to increase the interest rate; or, in other words, the burden of the tax is imposed upon borrowers.

The corporation tax is sometimes a general one imposed upon all corporations doing business within the State. More often it is levied upon those industries which are **General and special** monopolistic in character, and hence superior to the normal control of commercial forces; or which for some other reason bear a public or quasi-public character. Examples of these are (1) the railway, telegraph, telephone, and express industries; (2) bridge companies and corporations owning rolling stock and terminals; (3) banks, building and loan associations, and insurance companies; and (4) municipal monopolies, as street railways, gas and electric-lighting companies.

**159. Poll or Capitation Tax.** The poll or capitation tax is a uniform contribution levied against individuals as such. This generally proves a very difficult tax to collect; and it is an unjust form of tax, since the **A defective tax** same amount is exacted from each person, irrespective of his ability to pay. Many commonwealths still retain the poll tax, the levy being two or three dollars upon all males over twenty-one years of age.

**160. Income Taxes.** The income tax is a tax of a certain per cent on the annual clear income of each individual. Incomes below a certain amount are commonly **Characteristics** exempt, and the rate of taxation is often progressive.<sup>1</sup> An income tax in some form is levied in seven States: Massachusetts, Mississippi, North Carolina, Oklahoma, South Carolina, Virginia, and Wisconsin.

**161. License Taxes.** License taxes include "all payments which the law makes a condition to the transaction of business, or to the following of a profession, a trade, or any industrial calling." Except in the Southern States, where licenses are required for many **Definition and characteristics** different kinds of business, the license tax is generally imposed upon occupations which present peculiar difficulties

<sup>1</sup> A tax rate is progressive when a larger per cent is assessed upon higher than upon lower values; it is proportioned when the rate is the same per cent on all property.



from the point of view of police regulation, as the business of taxicab drivers, draymen, and peddlers.

**162. Franchise Taxes.** A franchise is an exclusive right or privilege granted by government, as the right to supply gas, water, or electric light within a certain area, or the right to use the streets of a city for the operation of a street-railway system. The chief value of street-railway property is not the cost of rolling stock and rails, but rather the exclusive right to use the streets for the purpose of carrying passengers. The franchise tax, then, is a tax upon a value arising from an exclusive privilege — in other words, upon a value which society itself creates. Throughout the entire history of American municipalities, franchises have been given away with utter disregard of their value and the public interest; but the present tendency is to secure for the city some return for the values arising from municipal growth and development.

**163. Reforms in Taxation.** The reform in taxation most earnestly advocated by students of this subject consists in the assignment of definite and exclusive sources of income to each of the several grades of government. Thus to the federal government would be assigned the revenue from customs duties and excise taxes, supplemented in case of need by a federal income tax.

State revenue should be derived from taxation of corporations, inheritance taxes, and licenses. The effort to reach intangible personal property through the general property tax should be entirely abandoned, and the commonwealth should leave to local governments all taxation of real estate. In this way many of the defects of the general property tax would be remedied. The antiquated and unjust poll tax should be abandoned entirely.

The revenue for rural local governments should be derived chiefly from the tax upon real estate, supplemented, if necessary, by a tax upon visible personal property. In cities large revenues should

**Definition  
and purpose**

**Sources  
of federal  
taxation**

**Sources  
of State  
taxation**

**Sources  
of local  
taxation**

be derived from franchises and licenses, supplemented by a tax upon real estate.

164. **Borrowing Power of State Governments.** In addition to the income obtained from the foregoing sources, States may obtain revenue through the use of their credit, or in other words, may borrow money. State and local debts are generally incurred for the construction of public works, although sometimes they are due to deficiencies in taxation. Debt-making means the distribution of the burden of heavy expenditures over a later period, the cost of this postponement being the payment of the annual interest.

Because of the recklessness of legislative bodies in contracting debts, most constitutions limit the amount of indebtedness that may be incurred by State and local governments to a certain per cent of the valuation of taxable property. Limitations are often imposed as to the objects for which State governments may borrow money; and a number of constitutions provide that no money may be borrowed unless the law authorizing the loan be ratified by a popular vote.

State governments generally borrow money through the issue of bonds, since the federal constitution expressly prohibits the commonwealths from issuing due-bills, or paper notes of any kind intended to circulate as money.<sup>1</sup> Provision is commonly made for the redemption of bonds through the accumulation of a sinking-fund; that is, a portion of the annual income is set aside each year in a special fund which is invested in interest-bearing securities, and ultimately applied to the extinguishment of the debt.

<sup>1</sup> *Constitution*, Art. 1, Sec. 10, Par. 1.

## GENERAL REFERENCES

- Adams, H. C., *The Science of Finance* (1905).  
Beard, C. A., *American Government and Politics* (1910), ch. XXXI.  
Bryce, James, *The American Commonwealth* (1908), I, ch. XLIII.  
Bullock, C. J., *Introduction to the Study of Economics* (1900), ch. XVII.  
Ely, R. T., and Finley, John H., *Taxation in American States and Cities*.  
Munro, William B., *The Government of the United States* (1920), pp. 460-472.  
Plehn, Carl C., *Introduction to Public Finance* (1897).

## QUESTIONS AND EXERCISES

1. What restrictions are imposed by your State constitution upon (a) the power to levy taxes; (b) the power to borrow money?
2. Study the balance sheet or financial statement of your State government for last year, and report upon the following: (a) the amount and sources of revenue for the year, arranged in the order of their importance; (b) the chief items of expenditure.
3. Make a similar report concerning the financial statement of your city or county.
4. State which of the following kinds of taxes are levied in your State: general property tax, mortgage tax, inheritance tax, corporation tax, poll or capitation tax, income tax, license or business tax, franchise tax.
5. What is the total assessed valuation of property in your city or county? What is the tax rate for city, school, county, and State purposes? Taking the assessed valuation as a basis, figure the amount of revenue which each area would receive at the respective rates.
6. Study the method of assessing property and of levying the general property tax in your community. Compare with the process described in Sections 153-155.
7. Are there county and State boards of equalization in your commonwealth? If so, how are they chosen? How may an assessment be increased or decreased?
8. Do rents tend to rise and fall as the tax rate increases or decreases? Why?
9. What penalty is imposed in case of delinquent taxes?
10. By whom are taxes assessed in your city or county? To whom paid?
11. If corporation taxes are levied in your State, give the rate of the tax, and the basis upon which it is levied (capitalization, earnings, etc.).
12. If inheritance taxes are levied, state the rate, exemptions, etc. Same for income taxes.
13. Why are poll or capitation taxes objectionable?
14. What is the amount of your State debt? Of your county debt? Of your city debt? Of your school-district debt? How are these debts to be paid?
15. For what amount are bonds generally issued by your local government? What is the usual rate of interest? How are the bonds sold?
16. For what purposes are governments justified in issuing bonds? Is it proper to issue bonds to defray current expenses?
17. If possible, bring a government bond to class for examination and study.



## CHAPTER XII

### THE FORMATION OF THE CONSTITUTION

165. **The Constitutional Convention (1787).** All the States except Rhode Island were represented in the Constitutional Convention, which held its sessions at Philadelphia from May 25 to September 17, 1787. Personnel  
of the  
convention Fifty-five delegates were at one time or another in attendance, including many of the ablest leaders and statesmen of the day. Of these nine had been signers of the Declaration of Independence; while all except twelve had served at some time in Congress, and eighteen were then members. Prominent among the delegates were George Washington, Benjamin Franklin, James Madison, Edmund Randolph, Alexander Hamilton, James Wilson, Gouverneur Morris, William Paterson, Elbridge Gerry, Roger Sherman, Oliver Ellsworth, John Dickinson, Luther Martin, Charles Pinckney, Charles Cotesworth Pinckney, and others of less note, but representing the best talent and thought of the country.

166. **Organization.** The date of the convention had been originally fixed at May 14, 1787, but it was not until May 25 that delegates from a majority of the Officers and  
procedure States were present. On this date an organization was effected by unanimously choosing George Washington as president, and William Jackson, secretary. It was decided that the convention should sit behind closed doors, and that all of its proceedings should be kept secret. As in the Confederation Congress, each State was to have one vote; and seven States were to constitute a quorum.

167. **The Contest over Nationalism.** The business of the convention commenced on May 29, when Edmund Ran-

dolph presented the so-called "Virginia plan" drafted by James Madison — the plan of government which was des-

**The Vir-** tined to form the basis of the constitution.  
**ginia plan** The fundamental feature of this plan was, that it aimed to create a national government, consisting of legislative, executive, and judicial departments; and this government was to operate directly upon individuals, instead of upon the several States. Representation in both branches of the national legislature was to be proportioned either to the quotas of contributions by each State, or to the number of free inhabitants. The national legislative power was to extend to all matters concerning which the commonwealths separately were incompetent to legislate; that is, where individual State legislation would be inconsistent with the public good. Furthermore, the national legislature was to have the important power of vetoing any State laws contravening the national constitution, or any treaty made by the national government. Thus the Virginia plan contemplated the abandonment of the Articles of Confederation, and the establishment of a vigorous and efficient national government.

Many members, especially the delegates from the smaller commonwealths, were opposed to the establishment of such a government. They wished only to revise  
**New Jersey** the Articles of Confederation, leaving the States  
**plan** sovereign as before in most practical concerns. They proposed to give Congress additional powers over commerce and revenue, and to establish a federal executive and a system of national courts; but they desired to reserve to the States all other powers not expressly delegated. The views of these delegates were embodied in resolutions submitted to the convention by William Paterson of New Jersey, and known as the New Jersey plan.<sup>1</sup>

168. The Great Compromise. In the debates that en-

<sup>1</sup> Two other plans were presented to the convention — one drawn by Charles Pinckney, the other by Alexander Hamilton.

sued, the question which aroused earnest and at times bitter discussion was that of representation according to population in both branches of the national legislature.

Small commonwealths like Connecticut and New Jersey feared that proportional representation

Proportional  
representa-  
tion

would mean that the national government would be dominated by the large States. On the other hand, delegates from the large commonwealths claimed that population was the only just basis for representation, and that it was unfair for the forty thousand people of Delaware to have the same voice in the national council as the half-million people of Virginia. This dispute marked the most critical period in the proceedings, and for a time it seemed that the convention was on the point of being dissolved. The crisis was finally averted by a compromise introduced by Sherman of Connecticut providing that representation in the lower house should be proportioned to population, and that this branch should have the exclusive right to originate revenue bills; while in the upper house the States were to be equally represented. To this the large States reluctantly agreed, and the first great compromise of the constitution was effected. Assured of an equal voice in the upper house of the legislature, the small States were no longer opposed to the establishment of a strong national government; and from this point on the proceedings were more harmonious.

**169. The Three-Fifths Compromise.** Another important compromise was over the question of representation in the lower house; here the line of division was between the slaveholding and the non-slaveholding States. A considerable part of the population

The basis of  
representa-  
tion

of the Southern States consisted of slaves, and the delegates from these commonwealths insisted that slaves should be counted in apportioning their quotas of Representatives; while the Northern delegates insisted that if the slaves were property, they could not be counted as persons. It



had already been decided that direct taxes were to be apportioned upon the same basis as Representatives; and this dispute was finally compromised by the adoption of the three-fifths rule, according to which five slaves were to be counted as the equivalent of three white persons for the purpose of apportioning both Representatives and direct taxes. This compromise proved in the outcome a distinct advantage to the South; for direct taxes were levied only five times prior to the Civil War, while during this entire period the South by virtue of its slave population had the benefit of a largely increased representation in Congress.

**170. Navigation Acts and the Slave Trade.** A third compromise also had its basis in the difference between the **Commercial and slave-holding interests** occupations and domestic institutions of the North and the South. Commerce and shipbuilding were the chief industries of New England; while at the South, agriculture carried on by slave labor was practically the sole occupation. The commercial States desired regulation of commerce by the national government in order that American commerce and shipping might be protected from foreign discrimination; but certain slaveholding States — especially South Carolina — feared that unless a two-thirds vote was required to pass laws relating to commerce, the national government might tax or even entirely prohibit the slave trade. The South also feared that Congress might tax exports, thus laying a heavy burden upon its agriculture staples. The problem was finally solved by vesting in Congress power to regulate commerce by a majority vote, but forbidding the enactment of any law prohibiting the importation of slaves prior to 1808 (although a per capita tax of ten dollars might be levied upon each slave imported). The taxation of exports by the States or by Congress was absolutely forbidden.

**171. Other Compromises and Modifications.** Many other adjustments were found necessary in order to settle conflicting views among the delegates, so that it may indeed be

said that the constitution is made up of a series of compromises. By one of these the election of the President was entrusted to the electoral college, and by another the presidential term was fixed at four years instead of seven. The resolutions offered by Randolph formed the framework of the constitution; but with these were incorporated six provisions from the New Jersey plan, together with perhaps twenty suggestions emanating from Pinckney.

Election  
and term of  
President

One modification of the original Virginia plan is especially important, namely, the rejection of the proposal to confer upon the general government the right to negative State laws. In its place was substituted a clause from the New Jersey plan declaring the national constitution, laws, and treaties to be the supreme law of the land, binding upon the judges in every State, "anything in the constitution or laws of any State to the contrary notwithstanding."<sup>1</sup> This provision lessened the danger of a clash between federal and State governments; for the decision in case of a conflict of laws is made a judicial, rather than a political question. Since the federal constitution is the fundamental law of the land, all other laws must conform thereto; and the constitution, like other laws, is enforceable in the courts. The federal judiciary has jurisdiction over all cases arising under the federal constitution, laws, and treaties; and therefore has the final decision on all questions of constitutional interpretation. No other single provision of the constitution has worked more successfully in practice, or received more praise from foreign critics. This clause has made our government essentially one of law, rather than a government of men—thus ending the struggle commenced by the English barons against King John at Runnymede.

Constitution  
as the fun-  
damental  
law

172. Sources of the Constitution. The federal constitution has been characterized by a great British statesman<sup>2</sup>

<sup>1</sup> *Constitution*, Art. VI, Par. 2.    <sup>2</sup> Gladstone, in *North American Review*, CXXVII, p. 185.

as "the most wonderful work ever struck off at a given time by the brain and purpose of man"; and for many years the generally accepted theory was, that a great part of our constitution was invented by the convention of 1787. Historical research has since shown that nearly every provision of the federal constitution had its origin in British or colonial precedents. The great achievement of the federal convention was in its skillful adaptation of former political experience to existing conditions. The British constitution, and still more, the colonial charters and State constitutions, furnished precedents of the highest value. By carefully working over the materials of old forms, rejecting that which had been tried and found wanting, moulding together familiar features that had proved valuable, a constitution was framed which is essentially a work of adaptation, enlargement, and emphasis, rather than one of creation. This very fact is the greatest tribute to the far-sighted craftsmen of the federal convention; for if the new instrument of government had not been deeply rooted in the political experience of the race, it would not have outlived the constitutions of so many European states, surviving the political and economic changes of more than a century, and meeting the supreme tests of foreign invasion and of civil war.

**173. Completion of the Convention's Work.** On September 8, the provisions of the constitution already agreed upon were sent to a committee of revision. A prominent member of this committee was Gouverneur Morris, to whose pen is due the lucid style and orderly arrangement of the instrument. Four days later the constitution came back for final consideration and revision, and after a few minor changes it was completed September 17, 1787. Several delegates had meanwhile left the convention, and only forty-two of the fifty-five members were present. Of these, thirty-nine signed the constitution, and Washington as president of the conven-

An adapta-  
tion of polit-  
ical experi-  
ence

Final draft



tion was authorized to transmit the document to the Congress of the Confederation, with the recommendation that the question of its adoption be submitted to conventions of delegates chosen by the people of the several States. Thereupon the convention adjourned, and the great question of ratification was before the people for decision.

**174. The Contest over Ratification.** The new constitution was not to become effective unless ratified by at least nine of the thirteen States; and as soon as it was published, the contest over ratification commenced. The opponents of the constitution declared that it gave too much power to the national government at the expense of the States, and that its adoption would sound the death knell of popular liberty. The Federalists, as the supporters of the new constitution styled themselves, defended the proposed plan with great ability, pointing to existing conditions as an unanswerable argument in favor of a stronger government. The Delaware Convention was the first to ratify the constitution (December 6, 1787). Others soon followed, and after some delay the ninth State, New Hampshire, accepted the constitution (June 21, 1788), thus insuring its adoption. Virginia and New York soon brought the number up to eleven; while North Carolina and Rhode Island gave a tardy and reluctant assent in 1789 and 1790, respectively.

**175. Inauguration of the New Government.** After nine States had ratified, the Congress of the Confederation adopted a resolution fixing the first Wednesday in March as the date of the inauguration of the new government. As the first Wednesday was the fourth of March, that date became fixed for the beginning and the end of the presidential and congressional terms. The city of New York was named as the temporary seat of government. After some delay, owing to the fact that a quorum was not present in either branch, the two houses assembled on April 6, 1789, for the purpose of counting the electoral vote. It was found that Washington was the unanimous choice for President,

while John Adams with one half the electoral votes became Vice-President. On April 30, Washington was inaugurated, and the new government was fully established.

### GENERAL REFERENCES

- Bancroft, George, *History of the United States* (1883-1885), VI, 195-474.  
 Beard, C. A., *American Government and Politics* (1910), ch. III.  
 ——— *Readings in American Government and Politics* (1910), ch. III.  
 Curtis, George T., *Constitutional History of the United States* (1903).  
 Farrand, Max, "Compromises of the Constitution," *American Historical Review*, IX, pp. 479-489.  
 Hamilton, Madison, and Jay, *The Federalist* (ed. by Lodge, H. C., 1904).  
 Hart, A. B., *American History told by Contemporaries* (1906), III, chs. 9-12.  
 Landon, Judson S., *The Constitutional History and Government of the United States* (1905), pp. 65-124.  
 McLaughlin, A. C., *The Confederation and the Constitution* (1905), chs. XI-XVIII.  
 McMaster, John B., *History of the People of the United States* (1907), I, pp. 390-453.  
 Munro, William B., *The Government of the United States* (1920), pp. 1-43.  
 Story, Joseph, *Commentaries on the Constitution of the United States*.  
 Thorpe, Francis N., *The Constitutional History of the United States* (1901).

### QUESTIONS AND EXERCISES

1. Discuss the reasons which made a new constitution imperative. (*The Federalist*, nos. XV, XVI, XXI, XXII.)
2. In what respect was it fortunate that the Articles of Confederation could not be readily amended?
3. Discuss the efforts to amend the Articles of Confederation. (Kaye, P. L., *Readings*, pp. 39-44.)
4. Mention an important public service performed by each of the delegates named in Section 165.
5. Which were the "small States" at the time of the Convention?
6. Compare the New Jersey plan with the Articles of Confederation. In what respects was the New Jersey plan an improvement?
7. Compare the Virginia plan with the federal constitution, noting which features of the Virginia plan were adopted and which ones eliminated. (Madison, *Debates*, pp. 59-64.)
8. Explain how the constitution corrected the chief defects of the government under the Articles of Confederation.
9. Was the compromise on the subject of representation an equitable one?
10. Prepare a report upon the several plans proposed in the convention for electing the President.
11. Point out analogies between our constitution and that of Great Britain; between the federal constitution and the early State constitutions.
12. Prepare a report upon the contest over ratification. (Landon, J. S., *Constitutional History of the United States*, pp. 89-124.)

## CHAPTER XIII

### THE AMENDMENT AND DEVELOPMENT OF THE CONSTITUTION

**176. Modification of the Original Constitution.** The federal constitution as it exists to-day differs little in form from the instrument framed in 1787; but in reality the original constitution has been modified so as to keep pace with the great social and industrial changes of the last century. This modification has been effected in three ways: (1) by amendment, in accordance with the method provided in the instrument itself; (2) by interpretation, that is, the construction placed upon its terms by the three departments of government, especially the judiciary; (3) by the development of a body of political usages and customs,<sup>1</sup> which, although not in conflict with its terms, materially modify its spirit and workings.

Amendment,  
interpreta-  
tion, and  
usage

**177. Process of Constitutional Amendment.** Of these three ways of modifying the constitution, that by amendment is the most direct and effective, but also the most difficult of application. Article V of the constitution provides two methods by which amendments may be proposed: first, by a vote of two thirds of each house of Congress; <sup>2</sup> or second, by a convention called by Congress on application of the legislatures of two thirds of the States. Amendments proposed by either method must be ratified by three fourths of the States. This ratification may be made either by the State legislatures, or by special State conventions, according as Congress proposes the one or the other mode of ratification.

Proposal  
and rati-  
fication

<sup>1</sup> Sometimes called the "conventions" of the constitution.

<sup>2</sup> The President's approval is not necessary to a proposed constitutional amendment.



Thus far seventeen amendments have been made to the constitution, all of which have been proposed by Congress and ratified by the State legislatures.

**178. The Bill of Rights.** In the contest over the ratification of the constitution, one of the objections most frequently heard was the lack of a bill of rights guaranteeing the liberties of the individual, as well as the rights of the States, against federal oppression. Accordingly, at its first session in 1789, Congress prepared and submitted to the States twelve amendments placing express limitations upon the powers of the federal government. Ten of these were ratified by the requisite number of States, thereby becoming a part of the constitution (1791). Of these amendments, the first eight are designed to guarantee to individuals certain fundamental rights concerning which the constitution itself makes no provision. The ninth and tenth amendments confirm the principle that the government of the United States is one of enumerated powers, those powers not conferred by the constitution being reserved to the States or to the people.

**179. The Eleventh Amendment.** The eleventh amendment was adopted in 1798, in consequence of the decision of the United States Supreme Court that a State like an individual was liable to be sued in a federal court by a citizen of another State or of a foreign country. The eleventh amendment reversed this construction by providing that the federal judicial power should not be construed to extend to any suit against a State by citizens of another State or foreign country.

**180. The Twelfth Amendment.** The twelfth amendment introduced a change in the method of electing the President and Vice-President, and was adopted in consequence of the election of 1800. The original section of the constitution provided that electors were to cast their ballots for two persons without specifying which should be President and which Vice-President. The influ-

ence of the party system made it necessary to modify this provision, so that the electors could designate explicitly their choice for each office; for otherwise a tie vote might result. Accordingly the twelfth amendment, adopted in 1804, provided that the electors should cast separate ballots for each officer.

181. **Amendments since the Civil War.** The reconstruction amendments (the thirteenth, fourteenth, and fifteenth) were added to the constitution in consequence of the Civil War. The thirteenth amendment abolished slavery throughout the United States and all places subject to its jurisdiction. The fourteenth defines citizenship, and seeks to prevent the States from discriminating against certain classes of citizens. The fifteenth declares that the right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude.

Slavery,  
citizenship,  
and suffrage

The power of Congress to levy an income tax having been denied, the sixteenth amendment was added in 1913, expressly authorizing Congress to tax incomes.

Recent  
amendments

The seventeenth amendment (adopted in 1913) changes the method of electing United States Senators. Prior to its adoption, Senators were chosen by the legislatures of their respective States. The seventeenth amendment provides that they shall be elected directly by the voters of each State.

The eighteenth amendment (adopted in 1919) forbids the manufacture or sale of liquor within the United States. The nineteenth amendment (adopted in 1920) grants the ballot to women on equal terms with men.

182. **Constitutional Changes through Interpretation.** The constitution has also been modified and expanded through interpretation, especially through the construction placed upon its terms by the United States Supreme Court. The importance of this tribunal in the development of the federal constitution can hardly be over-

Influence of  
Judiciary

estimated. "The constitution speaks of the age in which it was written, more than a century ago. The court expounds it in the language of its own age, holding fast to the old words and powers, but expanding them to keep pace with the expansion of our country, our people, our enterprises, industries, and civilization. Great controversies arise over questions and conditions impossible for the framers of the constitution to have anticipated. What would they have thought, if one had asked them whether a State law regulating the transmission or taxation of telegraphic messages would be unconstitutional, because encroaching upon the power of Congress to regulate commerce among the States? Plainly, a constitution made a century ago might well be expected to prove inadequate to the wants of the ever increasing population of the United States. That such is not the case is remarkable evidence of its wisdom, and also of the wisdom of its exposition."<sup>1</sup>

**183. The Doctrine of Implied Powers.** In the interpretation and expansion of the constitution, the doctrine of implied powers has been of the utmost importance. The Supreme Court has uniformly held that the federal government possesses not only the powers expressly granted in the constitution, but also those which are included within, or necessarily implied from, powers expressly granted. In other words, where it appears that a power has been granted to the federal government, the constitution is to be liberally construed so as to give effect to the grant. This construction is authorized by the constitution itself, which declares that Congress shall have power to make all laws which shall be "necessary and proper" for carrying into execution the powers conferred upon the federal government.<sup>2</sup>

**184. Chief Sources of Implied Powers.** The doctrine of implied powers has been developed chiefly in connection

<sup>1</sup> Landon, J. S., *The Constitutional History and Government of the United States*, p. 273.

<sup>2</sup> *Constitution*, Art. I, Sec. 8, Par. 18.



with three express powers: the taxing and borrowing power, the power to regulate foreign and interstate commerce, and the war power. The Supreme Court has held that under the taxing and borrowing power, Congress may create a system of national banks, issue paper money and make it a legal tender for all debts, and establish a tariff system.

Taxing and  
borrowing  
powers

Similarly, the power to regulate commerce has been held to authorize laws regulating the transportation of goods and passengers between the States of the Union, or between the United States and foreign countries; restricting or prohibiting immigration; establishing an Interstate Commerce Commission with large powers of control over interstate traffic; and providing for the construction of public works in aid of commerce.

Commercial  
power

The war power has proved one of the most elastic of constitutional powers. Under this power, territory may be acquired and governed in accordance with the laws of Congress, as in case of the territory ceded at the close of the Mexican and Spanish-American wars.<sup>1</sup> The most striking illustration of the scope of the war power was during our great Civil War, when President Lincoln exercised almost despotic powers with the sanction of Congress and the nation.

The war  
power

**185. Constitutional Changes through Usage.** Our constitution has also been largely developed and modified by usage, that is, by long-continued customs, rules, and political practices, which have sprung up in connection with the constitution. These usages or customs are not laws, since they are not recognized or enforced by the courts; but they have almost the force of law, and often materially modify the spirit and workings of the written constitution.

Influence  
of usage

**186. Influence of Usage upon the Executive.** One of

<sup>1</sup> Territory may also be acquired under the treaty-making power; e.g., the purchase of Louisiana, the Gadsden purchase, and the purchase of Alaska.

the most important of these usages or understandings has entirely changed the position of the presidential electors.

**Presidential electors** The framers of the constitution intended that the electors should exercise a wise discretion in choosing the chief executive. In the first two presidential elections this intention was realized; but since 1800 it has been clearly understood that the electors shall not exercise independent judgment, but shall merely ratify the choice of the political party to which they belong. No law prevents an elector from voting contrary to the wishes of those who elect him, but such an act would be deemed a most serious breach of public trust. In this way the electoral system as originally planned has been entirely superseded by a usage or understanding requiring electors merely to register the vote of their party.

Another unwritten rule having almost equal weight is that limiting the reëligibility of the President. The constitution places no restriction whatever on his reëligibility. **Reëligibility of President** Washington declined a third term, partly on the ground that unlimited reëligibility is not in harmony with republican institutions. The example thus set was followed by Jefferson, and public opinion has indorsed the precedent so strongly that it is now unwritten law that a President may not serve more than two terms.

The President's power of appointment has likewise been largely modified through certain usages. In the case of important appointments,<sup>1</sup> the President is generally obliged by custom to confer with the **Power of appointment** Senators and Representatives from the State where the appointee lives. In other words, Senators (if of the same political party as the President) claim the right to control the federal patronage of their respective States.

Another important constitutional understanding is that with reference to the President's power of removal. The constitution makes no provision for removals except through

<sup>1</sup> Except cabinet appointments, which are generally confirmed as a matter of course.

the process of impeachment; and the question early arose whether the consent of the Senate was necessary to the removal of officers appointed with the consent of that body. The First Congress adopted the view Power of removal that the power of removal belongs to the President alone, and this is now the settled rule upon this subject.

Usage has likewise created the President's cabinet, an institution unknown to the written constitution.<sup>1</sup> Custom alone has determined that in addition to their duties as administrative officials, the heads of the The cabinet various executive departments shall meet with the President as an advisory board, popularly known as the cabinet.

187. Usages affecting Congress. Congress, as well as the federal executive, has been affected by important usages. Foremost among these is the committee The committee system system of legislation, which prevails in both branches of Congress. The committee system is entirely an outgrowth of custom, with no basis whatever in the written constitution; but it affects profoundly the character and work of the federal lawmaking body.

The great political power of the Speaker of the House of Representatives is likewise due solely to usage. The constitution contemplates merely a presiding officer or moderator, like the President of the Senate; The Speaker but political practice has decreed that the Speaker, through his control over debate and his position as a party leader, shall wield more influence in government than any other man except the President.

An almost unvarying custom has added an additional qualification to those prescribed by the constitution for Representative. This is the unwritten Residence of Representatives rule requiring residence within the district which he represents, as well as residence within the State.

<sup>1</sup> The only reference to this subject is the clause providing that "the President may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices." — *Constitution*, Art. II., Sec. 2, Par. 1.



188. **Constitutional Modifications through the Party System.** The development of the constitution has been profoundly affected by our system of political parties. Although parties have grown up independently of the constitution and are nowhere contemplated by its provisions, it is through the party system that the machinery of government is carried on. Thus through the agency of parties the Presidency has been made a representative institution, the candidates for that office being chosen in party conventions, and voted for by electors who merely register the choice of the voters. The influence of the party system has also contributed largely to the importance of the Speakership; and partisan motives determine the composition of congressional committees, and profoundly affect legislation. Managing committees, local, State, and national, the party convention and the party caucus — in short, all the machinery of the party system — have long been fully established as part of the unwritten constitution. These and other usages form an integral part of our constitutional system; so that it may indeed be said that the written constitution provides only the skeleton of government, which custom and usage have transformed into a living organism.

#### GENERAL REFERENCES

- Ames, H. V., "Amendments to the Constitution" (1891), *American Historical Association Papers*, v, 253-263.
- Beard, C. A., *American Government and Politics* (1910), ch. iv.
- *Readings in American Government and Politics* (1910), ch. iv.
- Black, H. C., *Handbook of American Constitutional Law* (1897), pp. 41-45.
- Borgeaud, C., *Adoption and Amendment of Constitutions* (1895), pts. I, III.
- Bryce, James, *The American Commonwealth* (1907), I, chs. XXXI-XXXV.
- Burgess, John W., *Political Science and Comparative Constitutional Law* (1902), I, pp. 142-154, 184-252.
- Cooley, Thomas M., *Constitutional Law* (1898), ch. XII.
- Hamilton, Alexander, "Opinion on the Constitutionality of a National Bank" (Macdonald's *Select Documents*, II, pp. 81-98).
- Landon, J. S., *The Constitutional History and Government of the United States* (1905), ch. xv.
- Munro, William B., *The Government of the United States* (1920), pp. 57-70.
- Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. xv.

- Schouler, James, *Constitutional Studies* (1904), pp. 190-203.  
 Story, Joseph, *Commentaries on the Constitution* (5th ed., 1905), secs. 1857-1909, 1915-1974.  
 Tiedemann, C. G., *The Unwritten Constitution of the United States* (1890).  
 Tucker, John R., *The Constitution of the United States* (1899), II, ch. XI.  
 Woodburn, J. A., *The American Republic and its Government* (1908), pp. 86-93, 122, 274, 391.

### QUESTIONS AND EXERCISES

1. Mention some of the principal constitutional amendments which have been proposed but not ratified.
2. Is the process of amending the federal constitution too difficult? Give your reasons.
3. Contrast the process of amending our constitution with the method of amending the British constitution.
4. Compare the first eight amendments to the federal constitution with the bill of rights in your State constitution.
5. Why impose express limitations upon the federal government if it can exercise only those powers which are expressly granted, or necessarily implied from the grant of express powers?
6. Prepare a report upon the decision in the case of *Chisholm v. Georgia* (Section 179).
7. Give an account of the election of 1800, and explain why the twelfth amendment was necessary.
8. Prepare a report upon the adoption of the thirteenth, fourteenth, and fifteenth amendments.
9. Discuss the modification of the constitution by interpretation. (Bryce, James, *The American Commonwealth*, I, ch. XXXIII.)
10. Discuss the development of the constitution by usage. (Bryce, James, *The American Commonwealth*, I, ch. XXXIV.)
11. Prepare a report upon the usages or conventions of the British constitution. (Dicey, A. V., *The Law of the Constitution* (1902), ch. XIV.)
12. Suggested readings on constitutional development: Kaye, P. L., *Readings*, pp. 51-73.

## CHAPTER XIV

### RELATIONS OF FEDERAL AND STATE GOVERNMENTS

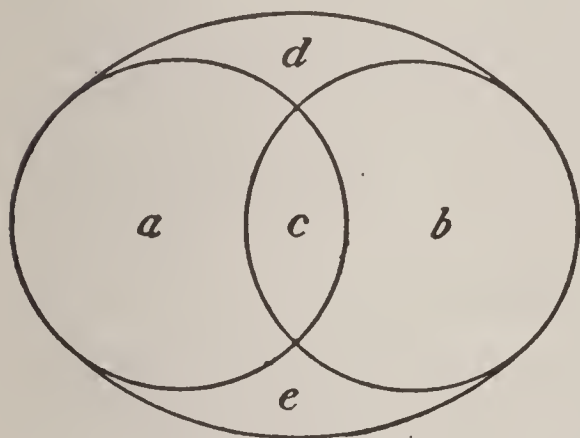
**189. The Federal System.** The great problem before the Constitutional Convention was not only to create a strong national government, but so to adjust its relations to the existing State governments as to produce a harmonious whole. This was accomplished through the adoption of the federal system under which two distinct governmental authorities exist, the one national, the other State. Each of these agencies is intended to perform that part of the work of government for which it is best adapted, and both rest upon the same ultimate authority — that of the people of the United States. It was John Dickinson who first compared the federal plan to the solar system, pointing out that the national government resembled the sun and the States the planets, each moving in its respective orbit, a deviation from which would imperil the entire system.

**190. General Distribution of Powers.** In the division of powers between the national and State governments, the constitution assigns to the general government those functions which are essentially national in character, while the States are left in control of matters which directly concern their people as communities. Since it would be impossible to name in the federal constitution all the powers of both governmental agencies, only those of the national government are enumerated, all others — except those specifically prohibited — being left to the State governments or reserved to the people.

Accordingly, the powers of government under our constitution may be grouped into five classes: —



- (a) Those vested exclusively in the national government.
- (b) Those reserved exclusively to the States.
- (c) Those powers (generally called concurrent) which may be exercised by either the national or State governments.
- (d) Powers denied to the national government.
- (e) Powers denied to the State governments.



The ellipse represents the sum total of governmental powers. Circle *a* represents powers delegated to the national government; circle *b*, powers reserved to the States; segment *c*, concurrent powers; segment *d*, powers prohibited to the national government; segment *e*, powers prohibited to the States. — Adapted from Tiedemann, C. G., *The Unwritten Constitution of the United States*.

DISTRIBUTION OF GOVERNMENTAL POWERS

**191. Powers of the National Government.** To the national government is entrusted control of foreign relations in general, including the making of war and peace; maintenance of an army and navy; regulation of foreign and interstate commerce; control of territories, naturalization, and bankruptcy; of coinage, currency, weights and measures; of post offices, post roads, copyrights and patents; the establishment of federal courts; the punishment of offenses against federal law; the protection of citizens against unlawful or discriminating legislation by any State; and the right to borrow money and to tax for national purposes.

In exercising these powers, the authority of the national government is direct and immediate, operating not through the agency of the States but directly upon individuals. Thus the national government does not Direct  
authority call on the States for funds, but levies its own taxes. Nor does it rely on the States to execute its commands; for the decrees of the national courts are executed by federal

marshals, and in case of need the whole military power of the Union may be employed against persons who resist its laws.

**192. Classification of Federal Powers.** The powers of the national government are sometimes classified as express and implied. Express powers include those expressly enumerated in the constitution; while implied powers are those which by reasonable implication are included in, or result from, those expressly granted. Implied powers have the direct sanction of the constitution, which declares that Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the powers vested in the national government.<sup>1</sup>

**193. Interpretation of Federal Powers.** Since the national government possesses only those powers expressly or impliedly granted by the federal constitution, it follows that all doubts as to the existence of any power must be settled by reference to the terms of that instrument. In determining what acts are necessary and proper in the exercise of enumerated powers, a liberal interpretation has been applied by the United States Supreme Court, the final arbiter upon constitutional questions. "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."<sup>2</sup>

Although the federal government is one of limited rather than of general powers, yet in the exercise of the powers granted it is supreme, and any conflict between federal and State authority must be settled upon this principle. The language of the constitution is clear and unequivocal in pointing out the supremacy of federal law: "This constitution, and the laws of the

Express and  
implied  
powers

Rule of  
construction

Supremacy  
of federal  
law

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 18.

<sup>2</sup> Chief Justice Marshall in *McCulloch v. Maryland*, 4 Wheaton, 316.

United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.”<sup>1</sup>

In order that the supremacy of the federal government may be maintained without danger of encroachment on the part of the States, the final interpretation as to its powers rests with the federal courts. While State courts may be called upon to construe the federal constitution as a part of the written law, the final decision in such cases is for the Supreme Court of the United States; and the interpretation of this court when rendered becomes a part of the supreme law, binding upon all other courts, and upon all individuals throughout the Union.

Final arbiter  
of constitu-  
tional ques-  
tions

194. Powers of State Governments. In contrast with the federal government, the State government is one of general powers. In determining whether a power is rightfully exercised by a State, the question is not whether the power is granted, but rather whether it is withheld. In other words, the States possess all powers of government except those which their own constitutions, or the federal constitution, explicitly or by plain inference withhold. They are the ordinary governments of the country, the federal government being its instrument only for particular purposes.

General  
nature of  
powers

Thus the States have a large field of governmental action, important not only from the variety of subjects included, but also because of the direct relation of these powers to the individual. Practically the entire body of criminal and private law is regulated by the States, including laws against crime, and those regulating the personal and property rights of individuals. The States also

Classes  
of powers

<sup>1</sup> *United States Constitution, Art. VI, Par. 2.*



have complete charge of local government, of education, and of the elective franchise. They create and regulate corporations, supervise domestic commerce, make legal regulations concerning capital and labor, exercise the far-reaching police power, care for the weak and dependent classes, regulate marriage and divorce, maintain militias, establish systems of courts, borrow money, and levy taxes.

**195. Concurrent Powers.** Most of the powers granted to Congress are vested exclusively in that body. The power vested in Congress is exclusive if it is made so by the express language of the constitution; or if the constitution confers the power upon Congress and prohibits the States from exercising a like authority; or if the subject-matter of the power is national in character, and can be governed only by a uniform system.

In a few cases the powers granted to Congress are not exclusive, but concurrent. In this field the States may pass laws which are valid until Congress sees fit to exercise the power with which it is invested, whereupon State laws are suspended, either wholly or so far as they are inconsistent with federal legislation. Thus the States control the subject of weights and measures in the absence of congressional action. Similarly, the States have passed laws on the subject of bankruptcy during those periods of our history when there was no federal bankruptcy act. The States may also provide by law for the punishment of counterfeiting, this being an offense against the State as well as the nation.

**196. Prohibitions upon the National Government.** The principal limitations imposed on the federal government are set forth in Article 1, Section 9, of the federal constitution, and in the first ten amendments. Most of these restrictions are designed either to protect individual liberty, or else to safeguard the States against discriminating legislation on the part of the federal government.

197. **Prohibitions upon State Governments.** Prohibitions imposed upon the States are contained in Article I, Section 10, and in the thirteenth, fourteenth, and fifteenth amendments. Of these limitations, the **Express limitations** first class is designed to prevent the States from infringing upon the sphere of the national government. For example, no State may enter into any treaty, alliance, or confederation. A second class of express limitations aims to secure private and political rights from encroachment on the part of the States. Thus no State may pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

In addition to the foregoing express prohibitions, certain other limitations are implied either from express provisions of the federal constitution, or from the nature **Implied limitations** of the relation between federal and State governments. Thus in some cases the powers granted to Congress are exclusive, either because so declared in express terms (as the power to exercise exclusive legislation over the seat of government); or because the subject-matter of the power is national in character, demanding a uniform system, and necessarily precluding any form of State action (as the power to establish a uniform system of naturalization). Again, from the nature of the relation between the States and the federal government, it follows that there is an implied prohibition on the part of the States to place any tax upon the instruments or means selected by the federal government to carry out its powers.

198. **Privileges of States in the Union.** Foremost among the important privileges belonging to States as members of the federal Union is that of representation in **Representation** Congress, in which body each State is entitled to two Senators, and a number of Representatives in proportion to its population. Similarly, each State has a right to participate in the election of a President by choosing electors for that purpose.

Another important privilege is the guaranty by the United States to each State of a republican form of government. By republican government is meant one in which those exercising authority act in a representative capacity, the ultimate power of control being vested in the people themselves. Republican government in a State might be threatened through invasion by some foreign power, and an attempt to establish a government under its authority; or by an insurrection having for its object the overthrow of the existing government. In either case it would be the duty of the federal government to interpose, and to protect the people of the State by the employment of the military force of the United States.

Each State has the right of territorial integrity — it cannot be divided without its consent. Finally, the States have certain important financial privileges. In the past the United States has on several occasions distributed considerable sums of money among them, as well as public lands of immense value; while at the present time the federal government makes annual appropriations for the support of agricultural stations, and of State agricultural and mechanical colleges.

**199. Duties of the States in the Union.** The privileges of the States as members of the Union involve corresponding duties. In the first place, the States are under obligation to keep up the forms of the national government by choosing presidential electors electing Senators and Representatives, and fixing the franchise which qualifies persons to vote for members of the House of Representatives.

The second and most important duty of the States is to remain in the Union. Before the Civil War, those who championed the doctrine of State sovereignty argued that the States were and had always been sovereign and independent; and that the Union was a vol-



untary compact from which any State might withdraw if it chose. Upon this issue the Civil War was waged, and the result of that conflict established forever the principle that the Union is not a compact between States, but a permanent government established by the people of the United States, and alterable only through constitutional amendment. In the language of Chief Justice Chase, "the constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States." There can be no such thing as peaceful secession; once a State is in the Union there is "no place for reconsideration, or revocation, except through revolution, or through consent of the States."<sup>1</sup> Hence the ordinances of secession adopted by the Southern States were null and void, and those States remained legally members of the Union, although the outcome of the Civil War practically reduced them to the position of conquered territory.

Finally, the States have other miscellaneous duties toward the Union, many of which have been already mentioned. They are to maintain a militia over which the federal government has large powers of control; and they are under obligation not to enact legislation in conflict with federal law.

**200. Interstate Obligations.** In addition to their obligations towards the federal government, the States owe important duties to each other as equal members of the same Union. By a provision of the federal constitution the citizens of each State are "entitled to all the privileges and immunities of citizens in the several States."<sup>2</sup> The purpose of this provision is to promote the unity of the American people by preventing discriminations against citizens of other States. This clause secures to the citizen of one State the right to travel about freely, or to settle or trade within the limits of any other; to acquire and hold property in any commonwealth, and to

Equal  
privileges  
of citizens

<sup>1</sup> *Texas v. White*, 7 Wall. 700.

<sup>2</sup> *Constitution*, Art. IV, Sec. 2, Par. 1.

be exempt from any higher taxes or other burdens than are imposed upon citizens of that State; also to claim the protection of any State government, and to have access to its courts.

Political privileges, as the right to vote, to hold office, and to serve on juries, are of course not shared, these rights being properly reserved by each State for its own citizens. A State may also limit the right to practice law to its own citizens, as well as the right to share in the use of the common property of the State (for example, to fish in the public waters, or to hunt game within the State limits).

**201. Public Acts and Judicial Proceedings.** The federal constitution provides that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State."<sup>1</sup>

This does not mean that the laws of any State are binding upon persons outside its limits, but that if it becomes necessary for the courts of New York, for example, to determine what are the public statutes of Pennsylvania, that fact may be established by introducing in evidence the Pennsylvania legislative records. Further, if the case in the New York court is one affected by Pennsylvania laws, that court will endeavor to give those laws the same effect that they would have in the Pennsylvania courts.

**202. Interstate Extradition.** Extradition is another interstate obligation imposed by the federal constitution. In order that fugitive criminals may be duly tried and punished, the constitution provides that "a person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."<sup>2</sup> The usual procedure when a criminal takes refuge in an-

<sup>1</sup> *Constitution*, Art. iv, Sec. 1, Par. 1.

<sup>2</sup> *Ibid.*, Art. iv, Sec. 2, Par. 2.

other State is to have him arrested and held until the governor of the State where the crime was committed sends a requisition to the executive of the State where he is found, asking his return; whereupon he is turned over to the authorities of the State issuing the requisition.<sup>1</sup>

### GENERAL REFERENCES

- Ames, H. V., *State Documents on Federal Relations* (1906).  
 Black, H. C., *American Constitutional Law* (1897), chs. II, IX-X, XVIII-XX.  
 Bryce, James, *The American Commonwealth* (1907), chs. II, IV, XXVII-XXX.  
 Cooley, Thos. M., *Constitutional Law* (1898), chs. X, XII-XVI.  
 ——— *Constitutional Limitations* (1903), ch. II.  
 Hart, A. B., *Actual Government* (1903), chs. II, VI.  
 Landon, J. S., *The Constitutional History and Government of the United States* (1905), ch. XVII.  
 McClain, E., *Constitutional Law in the United States* (1905), chs. III, XXX.  
 Schouler, James, *Constitutional Studies* (1904), pp. 115-155, 178-184.  
 Story, Joseph, *Commentaries on the Constitution of the United States* (5th ed., 1905), secs. 1331-1409, 1804-1831, 1857-1909.  
 Woodburn, J. A., *The American Republic and its Government* (1908), ch. II.

### QUESTIONS AND EXERCISES

1. Explain fully how the federal government brings its authority to bear directly upon individuals. Contrast this with the condition under the Articles of Confederation.
2. Prepare a report upon the decision of the Supreme Court in the case of *McCulloch v. Maryland*. (Section 193.)
3. May a State court declare a national law unconstitutional?
4. Explain the reason for giving the national government control of each of the subjects enumerated in Section 191.
5. If the first eight amendments had not been passed, could Congress have exercised these powers? Do these prohibitions apply to the States?
6. Can a State government levy a tax upon United States bonds? Upon the capital invested in national banks?
7. Mention some of the rights of States which cannot be infringed by the federal government.
8. May the President suppress an insurrection against State authority without the consent of the State?
9. Enumerate the provisions of the federal constitution which were adopted in order to insure interstate comity.
10. Suggested readings on relations between State and federal governments: Kaye, P. L., *Readings*, pp. 74-94.

<sup>1</sup> If the requisition proceedings are illegal, *habeas corpus* proceedings may be brought either in the State or federal courts to inquire into the lawfulness of the prisoner's detention.



## CHAPTER XV

### THE SENATE

203. **Congress a Two-House Body.** The legislative authority granted by the federal constitution is vested in a Congress consisting of two houses, the Senate and the House of Representatives. In creating a Congress of two branches, the framers of the constitution followed the precedent of Great Britain, as well as that of nearly all the thirteen State assemblies, wherein legislative powers were vested in two separate houses.

204. **Equal Representation of States.** As the result of a great historical compromise adopted by the Constitutional Convention to reconcile the conflicting desires of the large and the small States, the commonwealths are equally represented in the Senate, each electing two members; while in the House representation is proportioned to population. Thus the House represents the nation as a whole, the national principle: while the Senate represents the federal idea, equality of States.

Under this plan, there are 96 Senators, two from each of the forty-eight States; while the House of Representatives has 435 members. Equal representation of States in the Senate, regardless of population, is sometimes denounced as unjust and undemocratic. Nevada, for example, with a population of 77,407, less than one third as many people as there are in the city of Columbus, has as much power in the Senate as the great commonwealth of New York with over ten million inhabitants. However, this plan was undoubtedly necessary in order to secure the consent of the smaller States to the adoption of the constitution; and in practice, American politics have never turned

The  
Connecticut  
Compromise

Criticism of  
equal repre-  
sentation

upon a conflict of interests between the large and the small States. With the object of preventing any departure from the original compromise, the constitution provides that “no State, without its consent, shall be deprived of its equal suffrage in the Senate.” <sup>1</sup>

**205. Relations of the Two Houses.** The United State is the only great country in the world where the two legislative houses are really equal and coördinate. In Great Britain, France, and Italy, for example, the lower branch of the legislature is practically supreme; and in case of conflict, the upper house must ordinarily give way. Moreover, under the parliamentary system which prevails in these countries, the lower or popular branch of the legislature practically controls the administration, which it has virtually installed and which it supports.

But under our congressional system, the two houses possess coördinate and independent authority, and the executive is independent of both. Disputes between the two houses are frequent, as each freely alters and amends the bills that come from the other. In case of disagreement over a measure, the Senate usually, though not invariably, gets the better of the contest. It is a much smaller body, and can more easily keep its majority together. Then too, Senators serve for longer terms than Representatives, and as a rule they have had a wider political experience. Many Senators have previously served in the House, and hence are thoroughly familiar with the inner workings of that body. Although the constitution provides that revenue bills shall originate in the House of Representatives, as a matter of fact the Senate has an equal, and in many cases a far greater power over financial measures, which it may amend at its own discretion.

**206. Election of Senators.** In accordance with the seventeenth amendment to the federal constitution, each State

<sup>1</sup> *Constitution*, Art. v.

is represented by two Senators, elected directly by the voters of the State. Those persons are qualified to vote for Senator who, under State law, may vote for members of the more numerous branch of the State legislature.

**Direct  
election**

If a vacancy occurs in the representation of any State in the Senate, the governor of the State issues a writ of election to fill the vacancy. If the State legislature grants the necessary authority, the governor may appoint some one to serve temporarily as Senator, until the vacancy is filled by popular election.

**Vacancies**

Prior to the year 1913, Senators were chosen by the legislatures of their respective States. The framers of the constitution believed that better men would be chosen in this way. But there were serious objections to the method of indirect election.<sup>1</sup> The House of Representatives repeatedly passed a resolution to amend the constitution in this respect; but not until the year 1912 was it possible to secure the necessary two-thirds majority in the Senate. Once proposed, the amendment was promptly ratified by three fourths of the States, and became effective in 1913.

**207. The Senatorial Term.** The senatorial term is six years, and members are so classified that the terms of one third expire every two years — thus making the Senate a permanent body. It was believed that the six-year tenure would prove long enough to secure the talent and experience necessary for legislation, and to operate as a stable feature in the government. Senators are more frequently reelected than otherwise, and the average term of service is about twelve years.

**208. Qualifications of Senators.** The constitutional qualifications for Senators are three, and relate to age, citizenship, and residence. To be eligible to membership,

<sup>1</sup> After a long and bitter contest, it sometimes happened that no candidate was able to secure a majority in the legislature, and a "deadlock" occurred. Meantime the State was without its proper representation in the Senate, and the time and attention of its legislature were so taken up that State interests suffered.



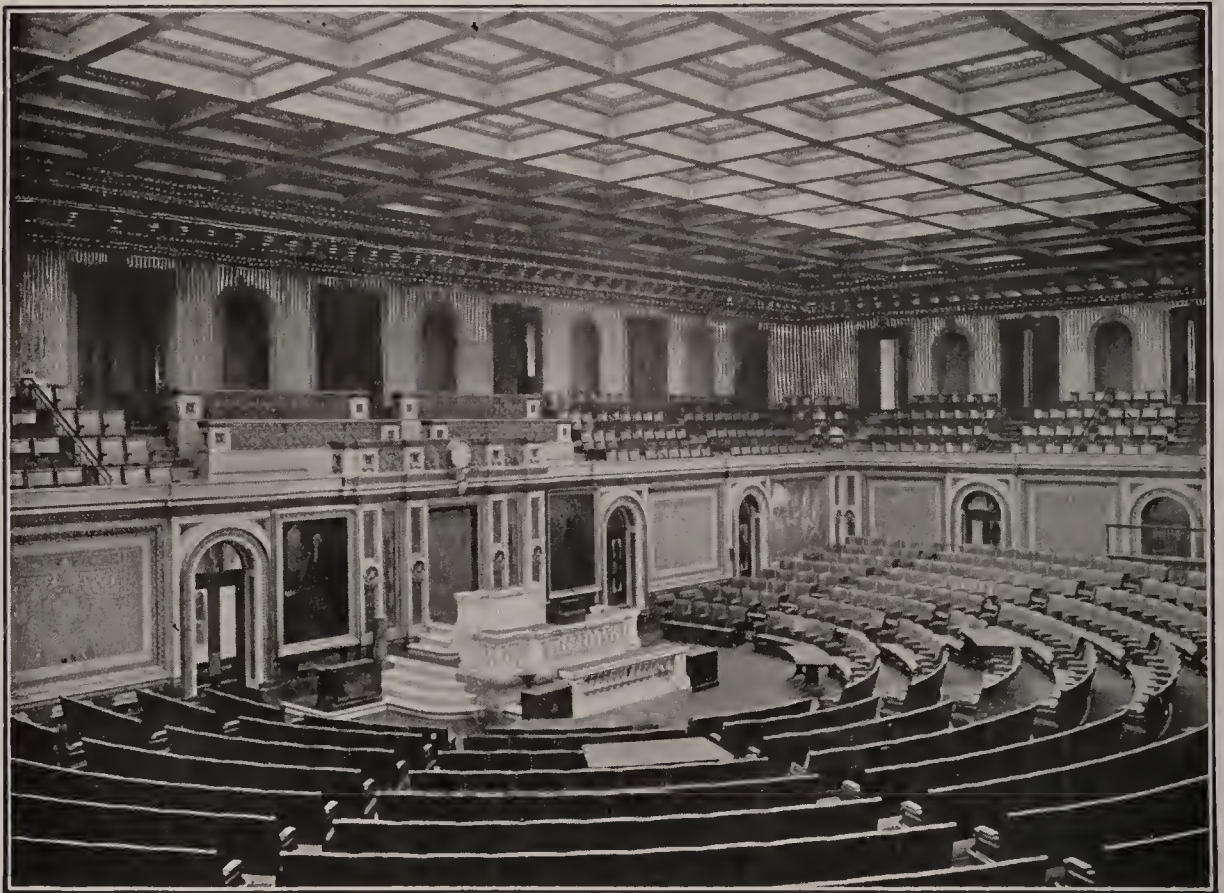


THE CAPITOL AT WASHINGTON





UNITED STATES SENATE CHAMBER



UNITED STATES HALL OF REPRESENTATIVES



one must be at least thirty years of age, must have been nine years a citizen of the United States, and must be an inhabitant of the State for which he is chosen.<sup>1</sup> The States have no power to add to or subtract from these constitutional qualifications; and whether they are lacking in a particular case is a question for the Senate itself to decide.

The constitution expressly creates two disqualifications — the holding of a federal office contemporaneously, and participation in rebellion against the United States, **Disqualifi-** after having taken oath as a government officer to **cations** support the constitution.<sup>2</sup> Congress or the Senate can make only such further disqualifications as are reasonably implied in the constitutional provisions. Thus the corrupt use of his powers by a legislator has been made a disqualification.

**209. Rights and Privileges of Members.** Members of Congress have the constitutional right to a compensation for their services, the amount to be determined **Compensa-** by statute and paid out of the treasury of the **tion** United States. At present both Senators and Representatives receive \$7500 per year, to which is added an allowance for clerk hire, stationery, and traveling expenses.

Except in case of treason, felony, or breach of peace, both Senators and Representatives are privileged from arrest during attendance at the sessions of their **Freedom** respective houses, and in going to and returning **from arrest** from the same. The object of this provision is to exempt members from being interfered with by judicial process while in the performance of their official duties.

Finally, members of Congress have the important privilege of freedom of speech and debate in their respective houses. That is, only the house it- **Freedom of** self can call members to account for their utter- **speech and** **debate**

<sup>1</sup> *Constitution*, Art. I, Sec. 3.

<sup>2</sup> Congress may remove the latter disqualification by a two-thirds vote of each house.



ances in that body; and a congressman cannot be prosecuted in the courts for libel or slander on account of any utterances in the house to which he belongs, or for the official publication of what he says.

**210. The Senate's Powers in Legislation.** With a single exception, the legislative powers of the Senate are identical with those of the House, and bills may originate indifferently in either branch. The exception is in case of revenue bills, which must originate in the House, although the Senate may propose or concur with amendments as on other bills.

**211. Executive Functions of the Senate.** The Senate is not only a legislative body, but also an executive chamber, having two important executive functions: first, the power of approving treaties; and second, that of confirming the most important presidential appointments. At the time of the adoption of the federal constitution, the upper house of the State legislatures had a large degree of control over the governor's power of appointment; and a similar distrust of the executive induced the framers of the constitution to give the Senate control over these two important executive powers.

**212. Power to approve Treaties.** All treaties negotiated by the President must be submitted to the Senate for approval, and in order to be ratified must receive the favorable vote of two thirds of the Senators present when the vote is taken. Although the President is not obliged to consult with the Senate during the negotiation of a treaty, in practice he usually does so, especially with the committee on foreign relations. The Senate considers treaties, as well as other executive business, in executive or secret session. The treaty may be approved or rejected as a whole; or it may be ratified in part, additional articles being recommended as amendments. When thus changed, the treaty does not become law until both the President and the foreign power have consented to the amendment.

**213. Confirmation of Executive Appointments.** Through its second executive function, that of confirming Senatorial nominations submitted by the President, the courtesy Senate exercises considerable control over the civil administration. This provision was designed to prevent abuses of power on the part of the executive, but it has operated to give the Senate a large control over federal patronage through the practice known as "senatorial courtesy." By this term is meant the mutual support that Senators give to one another, especially in the confirmation of executive appointments. Cabinet appointments are generally confirmed as a matter of course, and diplomatic appointments are seldom rejected; but nominations to federal positions within a State are ordinarily not confirmed unless approved by the Senators from the commonwealth in question, provided they are of the same political party as the President.

In considering appointments, the Senate acts in secret session, but reports of their proceedings commonly become public. In an executive session the galleries are Executive cleared, the doors closed, and the obligation of sessions secrecy is imposed upon every Senator, under penalty of expulsion if he discloses the confidential proceedings. But the obligation does not weigh heavily upon some members, and the newspaper correspondents generally manage to find out what occurs.

**214. The Senate's Judicial Function.** The judicial function of the Senate is to sit as a court of impeachment for the trial of persons formally accused, by the A court of House of Representatives, of treason, bribery, impeach- or other high crimes and misdemeanors. Im- mentpeachment is not limited to indictable offenses, but includes conduct which the courts of law cannot reach, as intemperance or abuse of official power. The President, Vice-President, and all civil officers of the United States are liable to impeachment; and the term civil officers includes all federal officers, except military and naval officers (who are tried

by courts-martial), and members of Congress (who are subject only to the rules of the house of which they are members).

The House of Representatives has the sole power to prefer charges of impeachment, that is, to present the articles of accusation as the grand jury presents an indictment. The trial then occurs before the Senate, the process resembling that of a trial by jury. The House appoints a committee of members to prosecute the charges before the Senate; the accused is entitled to counsel, and to full opportunity to present his defense; each Senator takes an oath to judge impartially; witnesses are examined; and the Senate then deliberates in secret session while arriving at a decision. In ordinary impeachment trials, the Vice-President or the President *pro tempore* of the Senate presides; but in case of the impeachment of the President, the presiding officer is the chief-justice of the United States Supreme Court.

A two-thirds vote of the Senators present is necessary to a conviction; and in case of conviction, the punishment cannot extend further than removal from office, and disqualification to hold any office under the United States. If the offense leading to impeachment is one punishable by law, the person impeached is liable to trial by the courts, as in case of any one who violates the law. The President has no pardoning power in cases of impeachment.<sup>1</sup>

<sup>1</sup> There have been nine cases of impeachment in our history, three of which resulted in conviction. The three men convicted were judges of the United States courts: John Pickering, judge for New Hampshire, impeached in 1803 for malfeasance in office, including drunkenness and other offenses; West H. Humphreys, judge for Tennessee, impeached in 1862 for disloyalty and inciting rebellion; and Robert W. Archbald, judge of the Commerce Court, impeached in 1913 for using his office as judge to influence railroad officials to grant him certain favors in connection with coal lands.

The most noted impeachment case in our history was that of President Johnson, impeached in 1868 for violating the Tenure of Office Act, and other offenses; acquitted by the narrow margin of one vote (thirty-five Senators voting guilty, and nineteen not guilty).



## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. XII.  
 ——— *Readings in American Government and Politics* (1910), ch. XII.  
 Bryce, James, *The American Commonwealth* (1907), I, chs. X–XII.  
 Fairlie, J. A., *National Administration of the United States* (1905), ch. III.  
 Ford, H. J., *The Rise and Growth of American Politics* (1898), ch. XXI.  
 Hamilton, Madison, and Jay, *The Federalist* (ed. by Lodge, 1904), nos. LXII–LXVI.  
 Hart, A. B., *Actual Government* (1903), ch. XIII.  
 Munro, William B., *The Government of the United States* (1920), pp. 146–175.  
 Reinsch, P. S., *American Legislatures and Legislative Methods* (1907), chs. I, III.  
 ——— *Readings on American Federal Government* (1909), chs. IV–V.  
 Story, J., *Commentaries on the Constitution of the United States* (5th ed., 1905), I, secs. 690–813.  
 Woodburn, James A., *The American Republic and its Government* (1908).

## QUESTIONS AND EXERCISES

1. Make an outline showing the points of resemblance between Congress and your State and city legislative departments.
2. Compare the Senate with the British House of Lords.
3. Has the Senate accomplished the special purposes which it was designed to fulfill? (*The Federalist*, nos. LXII–LXVI.)
4. How many Senators were there April 30, 1789? For what terms did these Senators serve?
5. What arguments can you present for and against the equal representation of States in the Senate?
6. Name the Senators from your State. How long have they served? When do their terms expire? To which political party do they belong?
7. Give arguments for and against the popular election of Senators.
8. Compare the term and qualifications of United States Senators with those of your State senators.
9. Which of the special powers of the United States Senate is exercised by your State senate?
10. State the advantages and disadvantages of having the Senate participate in appointments; in treaties.
11. State the objections to the practice of "senatorial courtesy."
12. Prepare a list of executive officials appointed by the President subject to confirmation by the Senate.
13. What officials in your congressional district were thus appointed? Was your Senator consulted?
14. Give an account of the controversy between President Garfield and Senators Conkling and Platt over appointments in New York State.
15. What is the smallest number of Senators who at the present time can pass a bill? Confirm an appointment? Ratify a treaty?
16. Prepare a report upon the impeachment trial of Andrew Johnson. (Sherman, *Recollections*, I, 413–432; Blaine, *Twenty Years of Congress*, II, 341–384; Cox, *Three Decades of Federal Legislation* 578–594.)
17. Suggested readings on the Senate: Reinsch, P. S., *Readings on American Federal Government*, ch. v; Kaye, P. L., *Readings*, pp. 156–183.

## CHAPTER XVI

### THE HOUSE OF REPRESENTATIVES

**215. Composition of the House.** The House of Representatives, often referred to simply as the House, consists of 435 members elected every second year by direct vote in congressional districts of nearly equal population. The number of Representatives to which any State is entitled depends upon its population as ascertained by the federal census, taken every ten years. Since the adoption of the fourteenth amendment (1868), the entire number of individuals in each State (except untaxed Indians) is counted in determining the population entitled to representation.<sup>1</sup>

Each of the territories is permitted to send to the House a delegate, who may speak on questions affecting his territory, but may not vote. Thus in the Sixty-seventh Congress (1921-1923), Alaska and Hawaii are represented by delegates, Porto Rico and the Philippines by resident commissioners.

**216. The Method of Apportionment.** After each decennial census, Congress determines upon the number of Representatives of which the House shall consist. The population of all the States is then divided by this number, the quotient being the ratio of representation; and the population of each State is divided by this

<sup>1</sup> Under the original provision of the constitution, Representatives and direct taxes were apportioned among the States according to population. In enumerating the population, all free persons were to be counted, including also persons bound to service for a term of years and excluding Indians not taxed; and including also *three fifths of all other persons*. In other words, five slaves were to be counted as equivalent to three white persons in apportionment and in levying direct taxes. This was the famous three-fifths rule, adopted as a compromise between the Northern and Southern members of the Constitutional Convention.

ratio to ascertain the number of Representatives to which it is entitled. Thus after the thirteenth census had been taken (1910), Congress passed an act fixing the number of Representatives at 435. Dividing the aggregate population of all the States, as ascertained by the thirteenth census, by 435, gave a quotient of 211,877 as the ratio of representation. Then the population of each State was divided by this ratio, the resulting quotients being the number of Representatives of the respective States.

After each decennial census, the number of members has been increased;<sup>1</sup> otherwise some States would have had fewer Representatives than during the previous decade, since population does not increase uniformly in all parts of the country.<sup>2</sup> Under the present ratio, two commonwealths, Nevada and Wyoming, would be without representation were it not for the constitutional provision that each State shall have at least one Representative in the House. When a new State is admitted, it is at once given representation, its members or member being additional to the number provided for by the preceding apportionment.

**217. Districting a State.** The boundaries of the congressional districts within each commonwealth are determined by its legislature, subject to the restriction of federal law that the districts shall be as nearly as practicable of equal population, and composed of compact and contiguous territory. In case the apportionment act changes the representation of a State, or if the decennial census shows that its population has increased unequally in various sections, redistricting the State becomes a necessity.

Sometimes States are redistricted for less legitimate reasons. The dominant party in the legislature may en-

<sup>1</sup> With a single exception — under the reapportionment of 1842.

<sup>2</sup> Although the House is now so large as to be unwieldy, it is smaller than the corresponding body in European countries. In Great Britain the House of Commons consists of 670 members; the German Reichstag, of about 400 members; while the French Chamber of Deputies numbers about 600 members.





shall be of nearly equal population has also been disregarded. In order to gain a partisan advantage, legislatures have occasionally created districts with almost double the population of other districts in the same State.

218. **The Suffrage.** When the constitution was framed, no attempt was made to establish a uniform national suffrage; instead it was provided that members of the House of Representatives should be chosen by those persons in the several commonwealths who are qualified to vote for the more numerous (i.e., the lower) branch of the State legislature.

No uniform  
national  
suffrage

The States are thus given control of the suffrage; and in order to determine who may vote for congressmen in any commonwealth, it is necessary to examine the qualifications prescribed by the State constitution for those who may vote for members of the lower branch of the State legislature. Generally speaking, universal suffrage prevails except as to the criminal, insane, or other defective or delinquent classes. But in a few commonwealths, a property qualification is prescribed; and an educational qualification, as ability to read or write, is required in fourteen States.

States deter-  
mine quali-  
fications

State control of the suffrage is subject to three important limitations contained in amendments to the federal constitution. The fifteenth amendment was intended to secure the suffrage to negro citizens. Furthermore, section two of the fourteenth amendment provides that in case the right to vote in any State is denied (except for crime) to male citizens who are twenty-one years of age, the State's representation in the House shall be proportionately reduced. Finally, the nineteenth amendment provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

Constitu-  
tional  
limitations

<sup>1</sup> Alabama, California, Connecticut, Delaware, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, North Carolina, South Carolina, Virginia, Washington, Wyoming.



**219. The Election of Representatives.** The constitution confers upon the State legislatures the power to make **Federal regulations** regulations as to the time, place, and manner of holding elections for Representatives; but reserves to Congress the right to make or alter these regulations at its discretion. In 1842 Congress exercised its reserved power of regulating the election of Representatives, and passed an act which provided that from that time on, all Representatives should be chosen by districts, and not by general ticket. Other important regulations subsequently adopted by Congress provide that the time for the election of Representatives shall be the Tuesday next following the first Monday in November of the even numbered years;<sup>1</sup> that the election shall be by written or printed ballot; and that the districts arranged by the State legislatures shall be as nearly as may be of equal population, and composed of compact and contiguous territory.

In many States, candidates for the House of Representatives are still nominated by district **Nomina- tion of candidates** tions composed of delegates representing units of local government within the congressional district, such as counties, or in the more thickly settled areas, assembly districts, townships, or wards. But in a larger number of States, the older convention method has been superseded by the direct primary system, under which candidates are nominated by the voters at a party primary.

**220. The Term of Representatives.** Representatives are elected for a term of two years, the legal term commencing on the fourth of March following the election. Actual service does not commence (except in case of special session) until the first Monday in December, thirteen months after the election. Reëlection is frequent, and the average term of service is about five years.

<sup>1</sup> Congress has exempted from the operation of this rule three States whose constitutions contain clauses establishing a different date. These are Oregon, where the election occurs on the first Monday in June; Vermont, where it takes place on the first Tuesday in September; and Maine, where it is held on the second Monday in September.



If a vacancy occurs in the representation from any State by reason of death, resignation, or expulsion of a member, the federal constitution authorizes the governor to issue a writ of election to fill the vacancy. **Vacancies**

A special election is then held in the district where the vacancy occurs, the Representative chosen serving for the remainder of the term.

**221. Qualifications for Representatives.** The constitutional qualifications prescribed for Representatives relate to age, citizenship, and inhabitancy. A Representative must have attained the age of twenty-five years, must have been a citizen for at least seven years, and must be an inhabitant of the State from which he is chosen.<sup>1</sup> The House itself determines whether these qualifications exist, and has even rejected duly elected individuals who possessed the constitutional qualifications. The States cannot add to the constitutional qualifications; but universal custom having almost the force of law prescribes residence within the district which the member represents.

**222. Rights, Privileges, and Disabilities of Members.** The privileges of members of the House are the same as those of Senators, and include the right to compensation, the privilege of freedom from arrest (except in cases of treason, felony, or breach of peace), and freedom of speech and debate. Representatives, like Senators, may not hold any civil office under the United States during their congressional term; nor be subsequently appointed to any office which has been created, or the salary of which has been increased, during their term.

**223. Special Powers of the House.** The House has three special powers not shared by the Senate: the exclusive power to initiate revenue bills; the sole right of impeachment; and the power to elect a President of the United States in case no candidate has a

**Three  
special  
powers**

<sup>1</sup> The constitution also provides that no person holding any office under the United States may be a member of Congress during his continuance in office.

majority of the electoral votes. These exclusive powers are not of great importance, and add little to the prestige of the House.

### GENERAL REFERENCES

- Bryce, James, *The American Commonwealth* (1907), I, chs. XIII-XIV.  
 Beard, C. A., *American Government and Politics* (1910), ch. XII.  
 Fairlie, J. A., *National Administration of the United States* (1905), ch. III.  
 Follett, M. P., *The Speaker of the House of Representatives* (1904).  
 Fuller, H. B., *Speakers of the House* (1909).  
 Hamilton, Madison, and Jay, *The Federalist* (ed. by Lodge, 1904), nos. LII-LIV.  
 Hart, A. B., *Actual Government* (1903), ch. XIII.  
 Munro, William B., *The Government of the United States* (1920), pp. 176-207.  
 Reinsch, P. S., *American Legislatures and Legislative Methods* (1907), chs. I-II.  
 ——— *Readings on American Federal Government* (1909), ch. VII.  
 Woodburn, James A., *The American Republic and its Government* (1908).

### QUESTIONS AND EXERCISES

1. Prepare a report showing points of similarity and contrast between the House of Representatives and the British House of Commons.
2. How many congressional districts in your State? How do these compare in area and population? Is the division a fair one, or has the gerrymander been employed?
3. Who is your Representative? To which political party does he belong? Length of his service in Congress? Previous political experience?
4. What is the number of your congressional district? What counties does it comprise? Which political party generally carries the district?
5. How are the political parties represented in the present House? Name prominent leaders of each party in the House.
6. Was your Representative nominated by a party convention or by a direct primary? Which is the better method?
7. Compare the special powers of the House of Representatives with the special powers of the lower branch of your State legislature.
8. Why should bills for raising revenue originate in the House of Representatives? What is the practice in the British Parliament?
9. Why was the election of a President entrusted to the House of Representatives, in case of failure of the Electoral College to choose a President? In this event, why is the vote in the House taken by States?
10. What is the smallest number of Representatives who can pass a bill for the first time? Over the President's veto? What number could elect a President, in case the election should go to the House?
11. What qualifications are required in your State in order to permit one to vote for a United States Representative?
12. Compare the term and qualifications of a United States Representative with those of your State representative.

## CHAPTER XVII

### CONGRESSIONAL METHODS

**224. Term and Sessions of Congress.** The life of each Congress coincides with the legal term for which Representatives are elected; that is, it commences on March 4 of the odd-numbered years, and ends on March 4, two years later. Hence Congresses are numbered according to biennial periods. The First Congress began its legal existence on March 4, 1789, and expired at noon on March 4, 1791; the Second Congress lasted from March 4, 1791, to March 4, 1793, and so on to the Sixty-seventh Congress, whose legal existence extends from March 4, 1921, to March 4, 1923.

The constitution requires Congress to assemble at least once each year, the date of meeting — which Congress may change — being the first Monday in December. Two regular sessions are held: the long session from December of each odd year until Congress adjourns, generally in the following June or July; and the short session, beginning when Congress assembles in December of each even year, and ending at noon on the following fourth of March. Thus Congress is ordinarily in session only about one half of its legal term. Special sessions may be called either by the President or by Congress itself.

From April, 1789, to December, 1790, Congress met at New York, then the seat of government; from 1790 until 1800 at Philadelphia; and since 1800 at the national capitol at Washington. The Senate chamber occupies the north wing of the capitol building, the House chamber the south.



**225. Internal Organization of Congress.** The constitution makes each house the sole judge of the elections, returns, and qualifications of its members. Contested elections are referred to a committee on elections, which considers the evidence in each case, and submits a report. Inasmuch as a majority of the members of the committee on elections are chosen from the dominant party, a contested election is quite likely to be decided on partisan lines. Persons may be excluded from membership if the election has been irregular or corrupt; if improper returns have been made; if the constitutional qualifications are lacking; or for other reasons which in the opinion of the house render individuals unfit to act as members.

The presiding officer of the House of Representatives is the Speaker, chosen from the members by the House itself; while in the Senate the *ex officio* presiding officer is the Vice-President of the United States. Other officers elected by the respective houses <sup>1</sup> from persons not members are: the clerk (in the Senate called the secretary), the sergeant-at-arms, doorkeeper, postmaster, and chaplain.

Each house of Congress may determine its own rules of procedure, punish members for disorderly behavior, and by a two-thirds vote, expel a member.<sup>2</sup> Acts of violence or abusive language may be punished by a vote of censure; or the offending member may be required to make a public apology to the house. Only grave offenses which show unfitness for the public trust and duty of a member are punished by expulsion.

The constitution requires that "each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays

<sup>1</sup> Nominally these officers are chosen by each house; but in practice the choice is made by the caucus of the majority party, held a few days before the organization of the house.

<sup>2</sup> *Constitution*, Art. 1, Sec. 5, Par. 2.



*(By courtesy of the Superintendent of the United States Capitol and Grounds)*

# THE OFFICE BUILDING OF THE UNITED STATES SENATE

There is a similar building for the House of Representatives.



*(By courtesy of Foster and Reynolds, New York)*

# THE EXECUTIVE OFFICES

Connected with the White House by a portico.



Sixty-first Congress of the United States of America:

At the First Session,

Begun and held at the City of Washington on Monday, the fifteenth day of March,  
one thousand nine hundred and nine.

AN ACT

To amend an Act entitled "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," approved April twelfth, nineteen hundred.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," approved April twelfth, nineteen hundred, is hereby amended by inserting at the end of section thirty-one of said Act the following additional proviso:

*"And provided further,* That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid."

SEC. 2. That all reports required by law to be made by the governor or members of the executive council of Porto Rico to any official in the United States shall hereafter be made to an executive department of the Government of the United States to be designated by the President; and the President is hereby authorized to place all matters pertaining to the government of Porto Rico in the jurisdiction of such department.

*Approved,  
July 15, 1909.*

*Wm. H. Taft*

*McCamden*  
Speaker of the House of Representatives

*McClure*  
Vice-President of the United States and  
President of the Senate



of the members of either house shall, at the desire of one fifth of those present, be entered upon the journal.”<sup>1</sup> The object of keeping a journal is to secure a permanent record of legislative action, as well as publicity of proceedings. The object of requiring the call of yeas and nays is to fix upon each member responsibility for his vote by making it a matter of public record.

An official account of congressional debates and proceedings is published, known as the Congressional Record. This appears daily during the session of Congress, and is supposed to be a verbatim report of what is said in each house; but members are allowed to revise their remarks before they are printed, and in the House many of the published speeches are not actually made at all — since members often merely prepare their speeches and obtain “leave to print.”

Congres-  
sional  
Record

**226. The Quorum.** A quorum of a legislative body is the number of members who must be present in order to transact business; and the quorum required by the constitution is a majority of each house. A smaller number than a quorum has power only to adjourn from day to day; but they may compel the attendance of absentees by sending out the sergeant-at-arms with instructions to bring in members wherever found.

What con-  
stitutes a  
quorum

**227. Presiding Officer of the Senate.** The presiding officer of the Senate is the Vice-President of the United States, the Senate itself choosing a president *pro tempore*, who occupies the chair during the absence of the Vice-President, or in case the latter succeeds to the Presidency. Unlike the Speaker of the House, the President of the Senate exercises no special control over legislation, but resembles the Speaker of the British House of Commons in acting simply as a chairman or moderator.

President of  
the Senate

<sup>1</sup> *Constitution*, Art. I, Sec. 5, Par. 3. — The Journal is an official record of the introduction of bills and the votes of members.

He does not appoint the Senate committees, these being elected by the Senate itself; and he has no vote except in case of a tie. Questions of order are decided by him without debate, subject to appeal to the Senate.

**228. The Speaker of the House of Representatives.** The position of the Speaker of the House of Representatives is entirely different. He is a political leader rather than a chairman or moderator, and is expected to use his office for party purposes. Moreover, the House has seen fit to concentrate large powers of control in the hands of its Speaker, until to-day his position is second in political importance to that of the President alone.

The House chooses its Speaker out of its own membership, and in earlier years exciting contests occurred in the House over the election. But with the development of the caucus system the real contest has been transferred to the caucus of the majority party, held shortly before the organization of the House. The candidate chosen by this caucus almost invariably receives the solid vote of his party in the House; for the rule of the caucus is that those who participate in its proceedings must support its decisions.<sup>1</sup>

As chairman of the House, the Speaker performs the customary duties of a presiding officer. He opens and closes the sittings of the House; maintains order; decides questions of parliamentary law; acts as the official representative of the House in its collective capacity; authenticates official proceedings by his signature; announces the order of business; states the question; and announces the vote. He also appoints the chairman of the committee of the whole, and may appoint a speaker *pro tem* for a period not exceeding ten days. The Speaker retains his privileges as a member, including the right to take part in debate (in which case he calls some member to the chair); and also the right to vote.

<sup>1</sup> The minority party also nominates a candidate in its caucus; he is regarded as the leader of the opposition, and is generally consulted by the Speaker in regard to the minority's representation upon committees.

**229. Chief Sources of the Speaker's Power.** In addition to the above duties, the Speaker has three powers of such importance as to give him a large degree of control over legislation during the period of his speakership.

(1) The Speaker is empowered to determine to which committee each bill shall be referred. If the measure might be appropriately referred to either of two com- Reference  
of bills mittees, he may determine its fate by sending it to the one which is friendly or hostile, according to his personal inclinations.

From 1790 to 1911, the Speaker had the right to appoint the committees of the House, and to designate their respective chairmen. Since these committees have almost entire control over legislation, this power of appointment gave the Speaker tremendous influence upon law-making. In forming the committees, the Speaker appointed members favorable to his own views, who could also be relied upon to promote the party policy. But in 1911 the Democratic House of Representatives changed the rules so as to transfer this power of appointment from the Speaker to a committee elected by the House itself. This practice has operated to decrease the Speaker's power.

(2) Another source of the Speaker's authority is his power of recognition — that is, of deciding which member is entitled to the floor; for no motion or speech Power of  
recognition can be made except by one who has been duly recognized by the chair. While there are certain unwritten laws of recognition, and certain restrictions imposed by custom, the Speaker has the power to recognize only such persons as he pleases; and accordingly he may see or refuse to see, as he thinks the public interest requires, or as party interests may dictate. When a member rises and addresses the chair, he is frequently asked, "For what purpose?" and the Speaker then decides whether he shall be recognized. When a bill is before the House for consideration, the Speaker generally has a list of members



(arranged beforehand by the committee chairman) who are to be recognized when the proper time comes; and discussion is thus confined to members whose names are on the Speaker's memorandum.

(3) The third source of the Speaker's authority is his right to decide points of order, including power to deal with obstruction — that is, filibustering tactics on the part of the minority. The obstructive devices formerly resorted to by the minority included preventing a quorum by refusing to vote, and delaying action by offering dilatory motions (as to take a recess, or to fix a day to which the House shall adjourn). In the Fifty-first Congress, Speaker Reed inaugurated the existing practice of counting as present persons actually in the House, whether they respond to their names at roll-call or not; and he also disregarded all motions and appeals made simply for the purpose of delay — a practice now invariably followed.

**230. The Committee on Rules.** Until March, 1910, a large part of the Speaker's power came from his control of the influential committee on rules. The rules committee is virtually a committee of control, with power to decide upon the order for considering bills, to determine the length of debates, and the time when the vote shall be taken. This is done by "reporting a rule" — that is, by presenting a report as to the time and conditions under which the House shall consider a measure — a report which takes precedence over any other business. Accordingly the committee on rules can accept or reject a bill, permit or limit or refuse debate, admit or decline to admit an amendment. Since March, 1910, this committee has consisted of ten members — six of the majority and four of the minority party, the Speaker being excluded from membership. This committee is elected by the House.

**231. Congressional Committees.** Large representative assemblies are confronted with the difficult problem of giv-

ing careful consideration to an immense number of measures, and at the same time acting promptly and efficiently. Two plans have been evolved for meeting this difficulty. The first is the cabinet or ministerial system, under which the leaders of the majority party in the legislature — who for the time being also hold the chief positions in the cabinet — prepare legislative measures, and defend them in the assembly against the attacks of the minority party. The cabinet virtually constitutes a central or ruling committee of the legislature, and retains control of the administration so long as it has the support of a majority of the members of the House. When no longer able to command a majority, the cabinet must resign, and a group of leaders from the opposition in turn becomes the governing committee. This is the British system, also followed in many countries of continental Europe.

The second plan is the congressional or committee system, which prevails in our federal and State legislatures. Under this system the assembly is divided into a number of smaller groups or committees, each of which is charged with the consideration of legislation pertaining to a certain subject. After being considered by these miniature legislatures, measures are reported to the assembly itself for final action. The decision of a committee with reference to a bill is practically final, for while either house may overrule the committee, in practice this is seldom done. Hence it is said that our legislation is by committees and not by the House, for as a rule the House merely ratifies the decisions of the committees.

Each member of the House serves on one or two committees, each Senator on from five to ten. Prior to 1911, the Speaker appointed all House committees; since that date these committees have been chosen by a special committee on committees, elected by the House. Senate committees are elected nominally by the Senate, but in practice by the caucus of the majority and minority parties. The minority

party is given such representation upon committees as the majority sees fit to allow — their representation being sometimes proportioned to the total minority membership.

**232. The Process of Legislation.** Every bill introduced in the House or Senate is read the first time by title only, and then referred by the presiding officer to the proper committee. The fate of the bill then rests with the committee; and “not having been discussed, much less affirmed in principle by the House, a bill comes before its committee with no presumption in its favor, but rather as a shivering ghost stands before Minos in the nether world.”<sup>1</sup> The committee may amend the bill as it pleases; or if unfavorable to the measure, may report it adversely, or too late for legislative action, or fail to report it at all.<sup>2</sup> If a bill receives the approval of the committee, it is reported back to the House or Senate with a recommendation that it be passed. It is then read a second time in full, and is placed upon the calendar — “the cemetery of legislative hopes” — along with hundreds of other bills. Here it must ordinarily await its turn, unless the committee on rules sees fit to direct immediate consideration. If a bill reaches the third reading, it is read by title only unless a reading in full is demanded, and the question is then put whether the bill shall pass.

In the House, debate is limited in several ways, chiefly by the closure rule. It is customary for the member in charge of the bill, after a limited discussion, to move the previous question, a motion which cuts off debate and brings the House to a direct vote upon the question.

In the Senate, debate is unlimited, and the absence of a closure rule makes it possible for Senators to defeat a measure by talking indefinitely upon the subject. Although this privilege of unlimited discussion is sometimes abused, the Senate has repeatedly refused to

Introduction  
and refer-  
ence of bills

Debate in  
the House

Debate in  
the Senate

<sup>1</sup> Bryce, James, *The American Commonwealth*, I, 157.

<sup>2</sup> The House may discharge a committee from further consideration of a bill and take it up directly, but this is rarely done.



adopt a rule cutting off debate. It proceeds upon the theory that if hasty and ill-considered legislation is to be prevented, entire freedom of discussion must be allowed.

Votes in Congress are taken in one of four ways: (1) By *viva voce* vote, in which case the presiding officer calls in turn for the "ayes and noes," and decides by the Methods of voting volume of sound whether the motion has been carried or lost. (2) By a standing vote, whereupon those for and against the motion rise in succession and are counted by tellers. (3) By passing between tellers in front of the Speaker's desk. (4) By roll-call, or vote by yeas and nays. In this case the clerk calls the roll and each member as his name is reached answers "aye" or "no," the vote being then recorded in the journal.

If a bill receives a majority vote in one house, it is engrossed and submitted to the other, where the same process is repeated. Either house may amend any Conference committees measure proposed by the other; but in case of amendment, however trivial, the bill must be returned to the house in which it originated. In the event of failure to agree upon an important measure, it is customary for each branch to appoint members of a conference committee which endeavors to adjust the differences. The report of this committee is generally a compromise between the opposing views. If the conference report is passed by both branches, an enrolled copy is prepared and signed by each presiding officer; and the bill is then ready to be submitted to the President.

233. Relations of Congress to the President. If the President approves the measure and affixes his signature, it thereupon becomes law. Otherwise he may President's veto veto the act, that is, return it to the house in which it originated, with a written statement of his objections. The objections are entered at large upon the journal of the house, whereupon the measure cannot become law unless upon reconsideration it receives a two-thirds vote of each house.

In addition to the exercise of his veto power, the President may influence the action of Congress in the following ways: (1) by his annual message to Congress; (2) by calling a special session of Congress and urging certain legislative measures; (3) by contact and communication through the executive departments with the congressional committees and their chairmen; (4) by the distribution of executive patronage.

On the other hand, Congress may bring its influence to bear upon the President in several ways: (1) By resolution, calling upon the President or an executive department to adopt a certain course, or censuring a course already taken, or requesting the submission to Congress of papers and information upon which the executive department has based its action. (2) By an investigating committee, appointed to inquire into the management of an executive department. (3) By refusing legislation recommended by the President, in order to embarrass his administration. (4) By withholding an appropriation necessary to carry out an executive policy. (5) By the use of a rider <sup>1</sup> to an appropriation bill. (6) By passing measures restricting the scope of executive powers; for example, requiring the President or his secretaries to do or refrain from doing something formerly left to their discretion. (7) By impeachment, "the heaviest piece of artillery in the congressional arsenal."

**234. Limitations on the Legislative Powers of Congress.** Since the government of the United States is one of delegated powers, it follows that the legislative authority of Congress is derived from the federal constitution and restricted by its terms. The power to legislate must be granted by the constitution either in express terms or by necessary implication; or the power must be one which is necessary and proper to carry into effect powers therein granted.

<sup>1</sup> A "rider" is an unrelated piece of legislation attached to another legislative measure in order that it may ride through on the merits of the measure to which it is attached.

Further, an act of Congress must not violate any of the restrictions expressly imposed upon Congress by the federal constitution. These are found mainly in the first ten amendments, and also in Section 9 of Article I. **Specific limitations**

The first ten amendments constitute a federal bill of rights, designed to secure personal and political rights (freedom of speech, trial by jury, and the like) from invasion on the part of the federal government.

**235. Classification of Congressional Powers.** The powers granted to Congress by the federal constitution may be classified under two heads: —

(1) Express powers, or those specifically enumerated in the constitution (Article I, Sec. 8, also Article IV, Sec. 3). **Express powers**

(2) Implied powers, or those which Congress may exercise under its authority to make all laws “necessary and proper” for carrying out the powers granted by the federal constitution.<sup>1</sup> While the federal government is one of enumerated powers, it is not limited to powers expressly granted by the constitution, but may exercise others which are properly incident to express powers, and necessary to their execution. For example, “the money powers of the federal legislature are held to give it the right to issue bonds and establish a system of national banks. Its power to regulate commerce invests it with authority to improve rivers and harbors, to maintain a coast survey, life-saving stations, and a naval observatory, to regulate the liabilities of ocean carriers and the charges of railroads, and to protect commerce against unlawful restraints and monopolies, and illegal combinations and trusts. Its power to lay and collect taxes furnishes the authority for the establishment and maintenance of the whole elaborate system for the collection of the customs duties, and internal revenue. Its authority to establish post offices and post roads includes the power to secure the passage of the mails

<sup>1</sup> *United States Constitution, Art. I, Sec. 8, Par. 18.*



from all obstructions or interruptions, to punish offenses against the postal laws, to exclude lottery advertisements and indecent matter from the mails, and to grant to telegraph companies a right of way over the public domain. Wherever Congress advances to fill the sphere of legislative jurisdiction confided to it by the great grants of the constitution, there advances with it the right and power to choose the means by which its laws shall be made effectual, and which are appropriate to the ends it is designed to accomplish." <sup>1</sup>

### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), chs. XII–XIV.  
 ——— *Readings in American Government and Politics* (1910), ch. XIV.  
 Bryce, James, *The American Commonwealth* (1907), I, chs. XV–XVI, XVIII.  
 Follett, M. P., *The Speaker of the House of Representatives* (1904).  
 Ford, H. J., *The Rise and Growth of American Politics* (1898), ch. XIX.  
 Fuller, H. B., *Speakers of the House* (1909).  
 Hart, A. B., *Actual Government* (1903), ch. XIV.  
 ——— *Practical Essays on American Government* (1905), nos. I, IX.  
 Harrison, B., *This Country of Ours* (1903), chs. II–III.  
 Kaye, P. L., *Readings on Civil Government* (1910), pp. 129–148.  
 McConachie, L. G., *Congressional Committees* (1898).  
 Munro, William B., *The Government of the United States* (1920), pp. 208–311.  
 Moore, J. W., *The American Congress* (1895), ch. XXXIV.  
 Reinsch, P. S., *American Legislatures and Legislative Methods* (1907), chs. I–III.  
 ——— *Readings on American Federal Government* (1909), chs. VI, VII.  
 Woodburn, James A., *The American Republic and its Government* (1908), pp. 257–315.

### QUESTIONS AND EXERCISES

1. What is the number of the present Congress? When does its term begin and end? When is the long session? The short session?
2. Give historical examples of important special sessions of Congress. What do you understand by the legislative calendar? The Congressional Record?
3. Which political party has control in each house? What majority has the dominant party?
4. To what extent may the federal government regulate elections to Congress?
5. Discuss the position and powers of the Speaker of the House of Representatives, especially his powers (a) of recognition, (b) of referring bills to committees.

<sup>1</sup> Black, H. C., *Constitutional Law*, p. 237.

6. Contrast the position of the Speaker of the House with that of the President of the Senate.
7. Who is the Speaker of the present House? From what State does he come? Are Speakers frequently reelected? What Speaker served longest in this position?
8. Write an account of the struggle in the Sixty-first Congress to limit the powers of the Speaker.
9. Summarize the advantages and defects of the committee system of legislation.
10. Name the most important committees of each branch of Congress, and their chairmen. (See the latest Congressional Directory.)
11. On which committees is your Representative? Committee positions of your Senators?
12. What is meant by the committee of the whole? Describe the procedure in this committee.
13. Were any important measures referred to conference committees at the last session? Were any vetoed by the President?
14. Select a law which was passed at the last session of Congress, and learn when it was first introduced as a bill, to what committee it was referred, when it was reported, how long debated and by whom, and the final vote upon it in the house where introduced.
15. What volumes would you examine in order to ascertain the law of Congress upon any subject?
16. Can a bill be carried through all its stages and become a law, all in one day? When does an act of Congress take effect?
17. Contrast the rules of the Senate and the House concerning debate.
18. Prepare a report upon the implied powers of Congress.
19. Give instances of laws passed by Congress in the exercise of each of the following: financial powers; commercial powers; military powers; territorial powers; power to define and punish crimes; power to regulate the election of presidential electors, Senators, and Representatives.
20. Prepare an outline showing (a) the principal subjects of federal legislation; (b) of State legislation; (c) of local legislation.
21. May the President submit drafts of bills to Congress?
22. What do you understand by each of the following terms: the lobby; filibustering; log-rolling; party caucuses; strike bills; riders?
23. Describe the obstruction methods sometimes resorted to in Congress.

## CHAPTER XVIII

### ORGANIZATION OF THE FEDERAL EXECUTIVE

236. Method of electing the President. Under the Articles of Confederation, there was no national executive, and this had proved one of the fatal defects of the Confederation government. Hence in the Constitutional Convention of 1787, there was unanimity as to the need of an executive department. The method of election was the subject of prolonged debate, the proposed plans including election by direct vote of the people, by Congress, and by electors chosen in various ways.

Debates in Constitutional Convention

Shortly before adjournment, the Convention decided that the choice of a President should be entrusted to electors chosen in such manner as the State legislatures direct. The arguments in favor of this method were that it would obviate the objections to both popular and congressional elections; and that it would entrust the selection to men qualified to exercise a wise choice, and capable of acting independently and deliberately. This expectation of an independent choice has not been realized in practice, since the electors in casting their votes do not exercise discretion, but merely register the will of their party as expressed through its nominating convention. In spite of its serious defects, this method of indirect election has at least two advantages: (1) no President can be chosen who does not have supporters in about half the States, thus decreasing the danger of a sectional choice; and (2) it lessens the temptation to perpetrate election frauds in States which have large pluralities in favor of one of the political parties.

Choice by Electoral College



237. **Number and Choice of Electors.** Each State has a number of presidential electors equal to the aggregate number of Senators and Representatives to which it is entitled in Congress. Thus New York having Number of electors forty-three Representatives and two Senators is entitled to forty-five electors; while Nevada with one Representative and two Senators has three electors.

The manner of choosing electors is left to the State legislatures, which have tried three different methods: Methods of choice election by the legislature itself; popular election by single districts; and popular election by general ticket.

At first in a majority of commonwealths, electors were chosen by the State legislatures; but with the Election by legislature growth of democratic ideas this plan was gradually abandoned in favor of popular election, which now prevails in every State.

Two different methods of popular election have been tried — the district and the general ticket systems. Under the district plan formerly used, each voter cast his ballot for three electors — one for the district in Election by popular vote which he lived and two for the State at large.

Election by districts was gradually supplanted by the general ticket system, under which each voter casts his ballot for all the electors to which the State is entitled. Under the general ticket plan (now universal throughout the Union), the ticket of one party is usually carried entire, since its supporters ordinarily vote for all the electors, whose sole function is to vote for the party's presidential candidate. This method concentrates the struggle in the doubtful States, especially in those which have large electoral votes.<sup>1</sup>

238. **Qualifications for Electors and Voters.** The only constitutional qualification for electors is the negative one that they shall not hold any office of trust or profit

<sup>1</sup> In 1884, Grover Cleveland secured all of New York's thirty-six electoral votes, although his plurality was only about one thousand out of a total of over one million votes cast in that State.

under the United States. In practice the district electors must be residents of their respective districts.

The qualifications for voters in presidential elections are the same as those for voters for the more numerous branch of the State legislature. Generally the suffrage is bestowed upon all male citizens twenty-one years of age who have resided within the State a certain period — frequently one year.

**239. Time of Choosing Electors.** Congress is empowered by the constitution to appoint a day for choosing the electors, and this day is to be uniform throughout the United States. In 1845 Congress prescribed the Tuesday following the first Monday in November of each leap year.<sup>1</sup> The election held on this day is popularly called the presidential election, as it is in effect; but speaking strictly, no votes at all are given for President and Vice-President on that day, but only for certain electors. About two months later the electors who have been chosen meet, and by their votes elect the nominee of their party.

**240. Meeting of the Electoral College.** In each State the electors who have received a plurality of the popular vote  
**Casting the  
electoral  
votes** assemble at the State capital on the second Monday in January following their election. Here they proceed to vote in distinct ballots for President and Vice-President, one of whom at least must not be an inhabitant of their own State. Three duplicate lists are then made giving the names of all persons voted for as President and Vice-President, respectively, and the number of votes for each. To each of these lists is attached a copy of the certificate of election signed by the governor of the State. The lists are then signed by all the electors, sealed, and certified as containing all the votes of the State for President and Vice-President. A special messenger — generally one of the electors — takes one of these lists to the President of the Senate at Washington; another list is

<sup>1</sup> Also in 1900, which was not a leap year.

sent by mail to the same officer; and the third is deposited with the United States district judge of the district in which the electors meet.

**241. Counting the Electoral Vote.** In accordance with the statute passed in 1887, the count of the electoral vote occurs on the second Wednesday in February following the meeting of the electors. Both <sup>Process</sup> houses of Congress assemble in the hall of the House of Representatives, whereupon the President of the Senate opens the certificates, and the count is begun. The vote of a majority of all the electors appointed is necessary to the choice of both President and Vice-President. Except in case of disputed returns, the count is a mere form, since the result is ordinarily known three months before.

**242. Election by the House of Representatives.** The constitution requires for the election of President "a majority of the whole number of electors appointed." If no person has a majority, the House of Representatives, in accordance with the twelfth amendment, elects the President by ballot from among the three candidates having the highest number of electoral votes. The vote in the House is taken by States, the delegation from each commonwealth having one vote; and a majority of all the States is necessary for a choice. In case the House does not choose a President before the fourth of March, the newly elected Vice-President becomes President. Two elections, that of 1800, and that of 1824, have been decided by the House.

**243. Changes in the Process of Election.** Four elections were held under the original provision of the constitution, but the election of 1800 demonstrated the need of a separate ballot for President and Vice-President in order to remove the possibility that the candidate for Vice-President might defeat the candidate intended for President. Accordingly the twelfth amendment was proposed by Congress in December, 1803, and ratified by the legislatures of three fourths of the States in the fol-

By consti-  
tutional  
amendment



lowing year. The principal points of difference between the original and the present methods are, that the electors now cast separate ballots for President and for Vice-President; and further, when the election devolves upon the House, that body chooses from the three highest candidates, instead of from the five highest, as under the original clause.

The intention of the framers of the constitution was that the electors should act independently in selecting a President.

**By political practice** But in the third election (1796), it was understood that the Federalist electors were to vote for Adams, and the Republican-Democratic electors for Jefferson; and since that time there has never been a case where an elector has voted contrary to the expectations of those who chose him. Candidates for President and Vice-President are now nominated by national conventions<sup>1</sup> of the political parties (usually held in June or July), composed of delegates from each State (two from each congressional district and four from the State at large). After the nomination of candidates by the national convention, State or district conventions of each party nominate electors whose sole function if elected is to vote for the candidates previously nominated. No provision of the constitution is stronger than the unwritten law that a presidential elector is required to vote for his party candidate.

**Oath of office and address** 244. The Inaugural Ceremony. The President-elect usually goes to Washington a short time before March 4, on which day the inaugural ceremony occurs. On the day of the inauguration, he is escorted by the committee in charge to the Executive Mansion or White House, and then accompanied by the outgoing President he proceeds to the capitol. The constitution requires that before entering upon his duties he shall take an oath to faithfully execute the office of President, and to preserve, protect, and defend the constitution. A platform is erected on the east front of the capitol, and here in

<sup>1</sup> See chapter xxx.



### THE WHITE HOUSE

This was the first public building erected after the seat of government was moved to Washington. The corner-stone was laid by President Washington, Oct. 13, 1792. The first President to occupy it was John Adams, in 1800. Alterations and additions were made in 1902-3 and a new building for the Executive Offices erected; this is connected with the White House by an esplanade.



### THE STATE, WAR, AND NAVY DEPARTMENTS

This structure ranks with the largest and most magnificent office buildings in the world. It has five hundred rooms and two miles of marble halls.





THE POST-OFFICE DEPARTMENT



THE TREASURY DEPARTMENT

This is second only to the National Capitol itself in architectural importance.



the presence of immense throngs of people, the oath is administered by the chief justice of the United States. The President then delivers an address outlining his proposed policies. This concludes the inaugural ceremony proper, after which the President returns to the White House and reviews a procession which is generally several hours in passing.

245. **Presidential Term, Salary, and Qualifications.** The original preference of the Constitutional Convention was for a single term of seven years, but this was **Four-year term** finally changed to a term of four years, with no restriction as to reëligibility. The term commences on the fourth day of March of each quadrennial year succeeding March 4, 1789. Precedent and custom having almost the force of law have placed a limit upon the number of terms a President may serve. Washington served two terms, but declined to be considered for a third, thereby establishing a precedent which has since been followed. In 1880 an effort was made to nominate ex-President Grant for a third term; but its failure served to strengthen the unwritten rule that no President is eligible for a third term.<sup>1</sup>

The qualifications prescribed by the constitution for the Presidency relate to citizenship, residence, and age. Natural-born citizens,<sup>2</sup> who have resided in this **Qualifications** country at least fourteen years, and have attained the age of thirty-five years, are eligible. The Vice-President must have the same qualifications.

The compensation of the President is fixed by Congress, but may not be increased or diminished during the existing presidential term. The first salary act passed in 1789

<sup>1</sup> Nine Presidents have been reëlected as their own successors, namely: Washington, Jefferson, Madison, Monroe, Jackson, Lincoln, Grant, McKinley, and Wilson; one President, Cleveland, was reëlected after an intervening term; and Roosevelt was elected President after he had succeeded to the office upon the assassination of McKinley.

<sup>2</sup> The constitution restricts eligibility to "a natural-born citizen, or a citizen of the United States at the time of the adoption of this constitution." The exception in this last clause was in favor of men of foreign birth (like Alexander Hamilton and James Wilson) who had performed splendid service during the Revolutionary period. It would have been ungracious to render such men ineligible to the presidential office; hence the exception, which of course is no longer of practical effect.

fixed the President's salary at \$25,000 a year; in 1873 this was changed to \$50,000, and in 1909 to the present salary, \$75,000. In addition, Congress pays certain expenses connected with the White House, and makes other allowances for expenses incidental to the presidential office. The annual salary of the Vice-President is \$12,500.

**Salary**                      246. **The Vice-President.** In case of failure to elect a President, or of his death, resignation, inability to discharge his duties, or removal by impeachment, the office devolves upon the Vice-President. The ordinary function of the Vice-President is to preside over the deliberations of the Senate; but he is not a member of this body, and his influence upon the Senate is ordinarily slight, since he does not appoint its committees and has no vote except in case of a tie.

**Functions**                      The Vice-President is generally nominated not with reference to his fitness to succeed the President, but because of his "availability" — to help carry a doubtful State, or to placate a defeated faction in the nominating convention. Yet five times in our history the succession has devolved upon the Vice-President. By the death of Harrison in 1841 and of Taylor in 1850, Tyler and Fillmore, respectively, became Presidents; and by the assassination of Lincoln in 1865, of Garfield in 1881, and of McKinley in 1901, Johnson, Arthur, and Roosevelt, respectively, succeeded to the Presidency.<sup>1</sup>

**Succession**                      247. **Election of Vice-President by the Senate.** The Vice-President is chosen by electors in exactly the same manner as the President; but if no person receives a majority of all the electoral votes for Vice-President, then in accordance with the constitution the Senate elects that officer from the two candidates having the highest number of electoral votes, a majority of the whole

**Method of choice**                      <sup>1</sup> The succession of both Tyler and Johnson proved a serious disappointment to the party which had elected them. Each had been nominated because of his "availability" — to strengthen the ticket.



number of Senators being necessary to a choice. The Senators vote as individuals, each member having one vote.<sup>1</sup>

248. **Statutory Presidential Succession.** Congress is empowered to designate by law who shall succeed in case the offices of both President and Vice-President become vacant — a contingency which has never yet occurred.<sup>2</sup> In 1886 Congress passed the present law, which, with later amendments, provides for succession by cabinet officers in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior. In order that the succession may devolve upon a cabinet officer, it is necessary that he shall have the constitutional qualifications prescribed for the Presidency. Act of 1886

#### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. ix.  
 Black, H. C., *American Constitutional Law* (1897), pp. 89-97.  
 Bryce, James, *The American Commonwealth* (1907), I, ch. v.  
 Ford, H. J., *The Rise and Growth of American Politics* (1898), ch. xxii.  
 Hamilton, Jay, and Madison, *The Federalist* (ed. by Lodge, 1904), nos. LXVII-LXXII.  
 Harrison, Benjamin, *This Country of Ours* (1903), chs. iv-v.  
 Hart, A. B., *Actual Government* (1903), ch. xv.  
 ———, *Practical Essays on American Government* (1905), no. III.  
 Kaye, P. L., *Readings in Civil Government* (1910), pp. 184-196.  
 Munro, William B., *The Government of the United States* (1920), pp. 88-104.  
 Schouler, James, *Constitutional Studies* (1904), pp. 156-168.  
 Stanwood, Edward, *History of the Presidency* (1904).  
 Wilson, Woodrow, *The State* (1906), secs. 1324-1333.  
 Woodburn, James A., *The American Republic and its Government* (1908), pp. 94-142.

<sup>1</sup> Only once in our political history has the choice of Vice-President devolved upon the Senate. In the election of 1836, Richard M. Johnson received 147 electoral votes for Vice-President out of a total of 294, lacking one vote of the requisite majority. He was chosen by the Senate, the vote standing: Johnson, 33; Granger, 16.

<sup>2</sup> The statute of 1792 provided that the President *pro tem* of the Senate should be next in succession, then the Speaker of the House, — a new presidential election to follow within two months.



## QUESTIONS AND EXERCISES

1. Discuss the arguments of Hamilton and Madison in the Constitutional Convention as to the length of the presidential term.
2. Prepare a report upon the methods of presidential election proposed in the Constitutional Convention.
3. What method of electing the President do you consider best? Reasons?
4. How many members in the electoral college at present? How is this number fixed? What number of electoral votes is necessary to a choice?
5. How many electors has your State? Which political party generally carries your State in presidential elections?
6. What qualifications are required in your State to entitle one to vote for presidential electors?
7. What would be the advantages of having electors chosen by congressional districts with two at large for each State, instead of upon a general ticket?
8. Describe the process by which the Presidency has been made a representative, democratic institution (Section 243). In other words, the difference between the theory and the practice of presidential elections.
9. Who were the candidates at the last presidential election? How were they nominated? Who were the candidates for Vice-President?
10. Who were the delegates-at-large from your State and the delegates from your district at the last Republican and Democratic national conventions? How were they chosen?
11. What electoral vote was received by each of the two principal candidates at the last presidential election? What was the popular vote for each?
12. What was the previous public service of our President before his election to the Presidency? Are successful governors often nominated for the Presidency?
13. Compare the chief planks of the two party platforms in the last presidential election. Has the successful party fulfilled the pledges of its platform?
14. Name the Presidents who received a minority of the popular vote.
15. Which States and which sections of the country have had the greatest number of Presidents?
16. Describe the presidential inauguration.
17. Discuss the former and present rule of presidential succession.
18. Prepare a report upon the presidential elections of 1800 and 1824.
19. Prepare a report upon the disputed election of 1876.

## CHAPTER XIX

### THE PRESIDENT'S POWERS AND DUTIES

249. **General Characteristics of the Federal Executive.** The federal constitution, like the State constitutions, establishes the executive department as an independent and coördinate branch of the government; but unlike the State constitutions, it vests executive power in a single individual — the President. Elected as the representative of the nation, and entrusted with large powers and corresponding responsibilities, the President is the most imposing as well as the most powerful factor in our national government. “A chief magistrate who wields the whole military and no inconsiderable share of the civil power of the state, who can incline the scale to war and forbid the return of peace, whose veto will stay the course of legislation, who is the source of the enormous patronage which is the main lever in the politics of the United States, exercises functions which are more truly regal than those of an English monarch.” <sup>1</sup>

Import-  
tance of  
Presidency

Since the executive is an independent branch of the government, it follows that in the performance of his duties the President is subject to the control of no other department or body. He cannot be arrested for any reason whatsoever, and is answerable for misconduct only before one tribunal — the Senate of the United States organized as a court of impeachment.

Executive  
independ-  
ence

250. **Classification of Executive Powers.** The powers of the President are enumerated in Article II, Sections 2 and 3 of the constitution, and may be classified as follows: (1) military powers; (2) administrative powers; (3) diplomatic powers; (4) legislative powers; (5) judicial powers.

<sup>1</sup> Hare, J. I. C., *American Constitutional Law*, I, 173.

**251. Military Powers of the President.** The President's military powers arise (1) by virtue of his position as commander-in-chief; (2) from his general duty to enforce the laws; and (3) from the federal guaranty to the State governments of protection against invasion or domestic violence.

**252. Position as Commander-in-Chief.** The constitution provides "that the President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into actual service of the United States."<sup>1</sup> By virtue of his position as commander-in-chief, the President regulates the disposition of the military and naval forces, both in time of peace and war; he appoints and dismisses all officers both of the army and navy; supervises the execution of the military law by which the army and navy are governed; calls out any part of the State militia when in his judgment such action is necessary to execute the laws of the Union, suppress insurrection, or repel invasion; and when war has been declared or when hostilities actually exist, he wages war as supreme commander. Not that the President is expected to take the field in person, but he has general charge of military movements. "In theory he plans all campaigns, establishes all blockades and sieges, directs all marches, fights all battles."<sup>2</sup>

In time of war the President's powers may so expand as to make him almost a dictator, as was practically the case with President Lincoln during the Civil War. Without waiting for action by Congress, the President proclaimed a blockade of the Southern ports, called for 75,000 volunteers, and increased the regular army by 22,000 men. Later, by the exercise of his authority, the writ of *habeas corpus* was suspended; martial law was declared in many districts; arrests were made upon military warrant with trial before military courts; and provisional governments were established in hostile territory. Finally,

War powers  
practically  
unlimited

<sup>1</sup> Constitution, Art. II, Sec. 2.

<sup>2</sup> Pomeroy, J. N., *Constitutional Law*, sec 706.



— the crowning example of the President's absolute power in time of war, — the Emancipation Proclamation was issued (January 1, 1863), freeing the slaves in the States then in rebellion.

253. **Duty to enforce the Laws.** The exercise of the President's military powers may at any time result in consequence of his important and comprehensive duty to "take care that the laws be faithfully executed." <sup>1</sup> Ordinarily the execution of the laws Methods  
of law  
enforcement proceeds along peaceful lines and can be carried on through the civil administration. Individuals who violate federal laws are arrested by United States marshals or their deputies, and tried before the proper federal court. But in case resistance to federal law becomes so serious that the civil powers cannot cope with it, the President is authorized to employ the military arm of the government to restore order; and it is for him to determine when such necessity exists, and which branch of the military service — the militia or the regular army — shall be used.

On several occasions in our history the President has found it necessary to use military force in order to execute the laws. In 1794 President Washington called out the militia from four States in order to suppress the so-called Whiskey Rebellion. The Civil Employment  
of military  
force War was of course the most notable instance when the Executive was obliged to resort to military force to execute the laws. Again, during the railway strikes of 1877 and 1894, mob violence interfered with the performance of certain functions of the national government, especially the transportation of the United States mails; and on both occasions regular troops were employed to overcome the resistance.

254. **Protection of the States.** The constitution provides that "the United States shall guarantee to every State in this Union a republican form of government, and shall pro-

<sup>1</sup> *Constitution*, Art. II, Sec. 3.

tect each of them against invasion; and on application of the  
**Federal in-  
intervention** legislature, or of the executive (when the legis-  
 lature cannot be convened), against domestic  
 violence.”<sup>1</sup> In order to give effect to this guaranty against  
 domestic violence, Congress has authorized the President,  
 on application of the State legislature or executive, to order  
 out such numbers of the militia as he deems necessary to  
 suppress the insurrection. It is for the President to decide  
 whether the exigency exists upon which the federal govern-  
 ment is bound to interfere. In case of a conflict between  
 rival State governments, it may devolve upon him to deter-  
 mine which is the rightful authority and to suppress the  
 opposition.<sup>2</sup>

Under some circumstances the President need not await  
 the application of the State authorities before intervening.

**Intervention  
to execute  
federal laws** For example, if domestic violence within a com-  
 monwealth violates federal law and interrupts the  
 discharge of the functions of the national govern-  
 ment, the President may act without awaiting the applica-  
 tion of the State government. In such cases federal inter-  
 vention is authorized under the clause of the constitution  
 requiring the President to “take care that the laws be  
 faithfully executed.”<sup>3</sup>

**255. Administrative Powers.** The chief administrative  
 function of the Executive is to carry into effect the laws  
 passed by Congress. In discharging this duty the  
**Federal ad-  
ministration  
centralized** President is aided by a large number of executive  
 officials, who are responsible to him as head of the  
 administration. Most of these officers are appointed by the  
 President either directly or through his immediate sub-  
 ordinates; and practically all of them, from cabinet officer

<sup>1</sup> *Constitution*, Art. IV, Sec. 4.

<sup>2</sup> Thus in the case of Dorr's rebellion in Rhode Island (1841-42), the President recognized the charter governor as the lawful executive and took steps toward calling out the militia to support his authority; and because of this action the rebellion collapsed. Again in 1873, a conflict between two rival governments in Louisiana was settled by federal troops.

<sup>3</sup> A notable instance of intervention under these circumstances was President Cleveland's action during the great railway strike of 1894, when he ordered United States troops into Illinois to enforce the postal laws and the provisions of the Interstate Commerce Act.



down to federal marshal, may be removed by him. Thus the distinctive feature of the federal administration is the direct control exercised by the President through his power of appointment and removal. In sharp contrast with the State executive, the President is the actual as well as the nominal head of the administration.

**256. The Power of Appointment.** The President's power of appointment is conferred by the constitution in the following provision: "He shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments."<sup>1</sup> The officers whose appointments are "otherwise provided for" are the President and Vice-President, the presidential electors, members of the Senate and House, and the several officers of these two houses. All other officers of the United States are appointed either: (1) by the President subject to confirmation by the Senate; or (2) in the case of inferior officers, by the President alone, by the courts of law, or by the heads of departments.

Constitutional provision

**257. Officers appointed by Concurrent Action of President and Senate.** The class of officers appointed by the President with the advice and consent of the Senate is comparatively small (12,000 out of 587,000 federal officials), but it comprises the most important officers of the government. The customary process of appointment is for the President, after private conference with individual Senators from the States in which the appointees live, to send to the Senate the names of the

Process in making appointments

<sup>1</sup> Constitution, Art. II, Sec. 2.



persons selected for certain offices.<sup>1</sup> The Senate refers these nominations to the appropriate standing committee; and the committee confers with the Senators of the State from which the nominee comes (if of the same political party as the President) to ascertain whether there is objection to the appointment. A report is then made to the Senate either favorably or adversely to the nominee, and that body confirms or rejects the appointment. If the nomination is confirmed, the President on being notified issues a commission to the officer, thereby completing the appointment; while if the nominee is rejected, the President must make a second choice.

An exception to the usual process of appointment arises in case of vacancies which occur from death, removal, or resignation during the recess of the Senate. In such cases the President may make temporary appointments at his sole discretion; but such an appointment terminates at the end of the next session of the Senate, unless meantime confirmed by that body.

**258. Appointment of Inferior Officers.** Under the constitution, Congress is empowered to vest the appointment of inferior officers in the President alone, in the courts of law, or in the heads of departments. Accordingly the President appoints the clerks in his office, and indirectly (through his department heads) controls the appointment of many other officials; the judges appoint the clerks and reporters of their courts; and the cabinet officers appoint most of their subordinates. A large majority of these inferior federal offices are now filled in accordance with the rules of the civil service.

**259. The Power of Removal.** The general rule as to removals is that the President may at any time remove any officer in the federal service for reasons which he deems sufficient. Exceptions to this statement are the federal

<sup>1</sup> Provided those Senators are of the same political party as the President. In the case of minor appointments within a congressional district, the President ordinarily confers with the Representative from that district (if of the same political party as the President), and is more or less guided by his recommendation.

judges, who hold office during good behavior and can only be removed through impeachment; and military and naval officers, who in time of peace can only be removed through the decision of a court-martial.

The constitution is silent concerning the power of removal, but by legislative construction and executive practice the principle has become established that the President may remove officers without the con- Tenure of  
Office Act sent of the Senate. Only once has there been a departure from this construction, — in the Tenure of Office Act of 1867. This measure in effect required the consent of the Senate to the removal of officers appointed by the concurrent action of the President and Senate. After being materially modified in 1869, this act was at length entirely repealed (1887), thereby re-affirming the principle that removal from office is an exclusive power of the Executive.

**260. Term of Federal Officers.** Most of the important officials in the executive service are appointed for four years, re-appointment not being customary. This class includes territorial judges and governors, marshals, district attorneys, the chiefs of many bureaus, customs collectors, Indian agents, pension agents, and postmasters of the first three classes. Cabinet officers are appointed without limit of term, and serve during the pleasure of the President. Subordinate officials under the classified civil service are also appointed for an indefinite term, holding office as long as they serve efficiently. This permanence of tenure for subordinate executive officials was only established after a long experience of the evils of the spoils system, introduced at the beginning of Jackson's first administration (1829). Its demoralizing effects upon the public service continued unchecked until the administration of President Arthur (1883).

**261. Civil Service Reform.** Finally, in 1883 public opinion compelled Congress to pass a Civil Service Act <sup>1</sup> de-

<sup>1</sup> Civil service denotes the executive branch of the government, as distinguished from legislative, judicial, military, and naval offices.



signed to make appointment to subordinate executive offices depend upon individual merit, rather than upon partisan service. This act created the United States Civil Service Commission, consisting of three persons (not more than two belonging to the same political party), appointed by the President with the consent of the Senate. Other important provisions are as follows: (1) It provides for open, competitive, practical examinations for all applicants for positions in the classified service. (2) These positions are to be filled by selection according to grade from among those applicants standing highest on the examinations, a period of probation to precede final appointment. (3) Appointments are to be apportioned among the several States and territories according to population. (4) No appointee can be required to contribute to any political fund or to perform any political service. (5) No Senator or Representative is allowed to recommend any applicant to the examining board. (6) The appointing power is required to notify the commission of the selection of applicants from those recommended as a result of the examination; also of the rejection of applicants after probation, and of transfers, resignations, and removals.

The Civil Service Commission appoints a chief examiner and boards of examiners who conduct examinations not less than twice each year at Washington, D.C., and in the various States and territories. These examinations are practical in character, having special reference to the nature of the work which the applicant is to perform. The commission has instituted a system of promotion from the lower to the higher grades of the public service, thus encouraging efficiency by enabling competent officials to advance to higher positions.

The number of officers included under the original act was about 14,000. Subsequent Presidents, especially Cleveland, Harrison, and Roosevelt, have greatly extended its operation by executive orders, until at present

Civil  
Service  
Act of 1883

Examination  
and pro-  
motions

Extent of  
civil service



the total number of federal employees subject to the merit system is about 330,000. The classified service now includes nearly all the clerks in Washington (the so-called departmental service); officials in the postal service, including letter-carriers and clerks in post offices and the railway mail service; together with employees in customs houses, in the revenue service, the government printing-office, and the Indian service.

The merit system of appointment has greatly improved the public service. It proceeds upon the theory that a public office is a public trust, not the political prize of a party victory. It makes appointment to such office depend upon merit and promotion upon efficiency, thus placing government service as nearly as possible upon a business basis. Undoubtedly it has defects, but it marks a great advance upon the proscription and demoralization that existed for over fifty years under the spoils system.

**262. Diplomatic Powers.** The President's diplomatic powers include: (1) the power to appoint ambassadors, ministers, consuls, and other commissioners to foreign countries; (2) the power to receive foreign ambassadors and representatives; (3) the power to make treaties by and with the advice and consent of the Senate. Through the agency of our representatives abroad, the President has sole control of the ordinary intercourse between the United States and other nations; but his power to conclude treaties or formal compacts with other nations is shared by the Senate.

**263. Appointing and receiving Representatives.** The constitution provides that the President shall appoint all ambassadors, other public ministers, and consuls, subject to the consent of the Senate; but once appointed, these officers are under his sole control.

Control of  
foreign  
intercourse

"They communicate alone with the Executive through the State Department. Instructions are sent to them, dis-

patches forwarded, demands made, claims insisted on, principles adopted and enforced, as the President deems proper.”<sup>1</sup> The management of foreign affairs is entrusted to the Department of State, at the head of which is the Secretary of State, who acts under the direct personal control of the President.

The President's power to receive ambassadors and other public ministers is in most cases merely a ceremonial duty; but it may involve important consequences, since the President must exercise his discretion in receiving, or refusing to receive, the minister from a state claiming to be independent, but whose independence has not been generally recognized. Moreover, he may refuse to receive a particular person in those exceptional cases where the foreign representative is personally objectionable (*persona non grata*) to our government. Should relations between the United States and a foreign power become seriously estranged, the President may dismiss the foreign minister, thus involving a suspension of diplomatic relations and the probability of war. The President's power of regulating foreign intercourse is a momentous one: he cannot declare war, but he can so conduct foreign affairs as to incline the scale toward peace or war.<sup>2</sup>

**264. The Power to make Treaties.** By the constitution the President is vested with the power to negotiate treaties and conventions with other countries. The negotiation of treaties is conducted by the President through the Department of State; but during the process of negotiation he generally consults with the Senate committee on foreign relations, and with the leaders of the senatorial majority. After the treaty has been framed, it is submitted to the Senate, where it is discussed in exec-

Receiving  
foreign  
represent-  
atives

Negotiation  
and ratifica-  
tion

<sup>1</sup> Pomeroy, J. N., *Constitutional Law*, sec. 671.

<sup>2</sup> In 1846, before the outbreak of the Mexican War, President Polk ordered troops into the disputed territory, where they were attacked by the Mexicans; and Congress then declared that “war existed by the act of the Republic of Mexico.” At a later date, President Cleveland's famous Venezuelan message seemed likely to involve this country in war with Great Britain.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

This year of 1910 is drawing to a close. The records of population and harvests which are the index of progress show vigorous national growth and the health and prosperous well-being of our communities throughout this land and in our possessions beyond the seas. These blessings have not descended upon us in restricted measure, but overflow and abound. They are the blessings and bounty of God.

We continue to be at peace with the rest of the world. In all essential matters our relations with other peoples are harmonious, with an ever-growing reality of friendliness and depth of recognition of mutual dependence. It is especially to be noted that during the past year great progress has been achieved in the cause of arbitration and the peaceful settlement of international disputes.

Now, therefore, I, William Howard Taft, President of the United States of America, in accordance with the wise custom of the civil magistrate since the first settlements in this land and with the rule established from the foundation of this Government, do appoint Thursday, November 24, 1910, as a day of National Thanksgiving and Prayer, enjoining the people upon that day to meet in their churches for the praise of Almighty God and to return heartfelt thanks to Him for all His goodness and loving-kindness.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fifth day of  
November, in the year of our Lord one thousand nine  
hundred and ten and of the independence of the  
United States the one hundred and thirty-fifth.

By the President:

*Alvey A. Adee*  
Acting Secretary of State.

*Wm. H. Taft*

A PRESIDENTIAL PROCLAMATION





### AN EARLY ATTEMPT AT IRRIGATION

Before the National Government took up this work, methods were crude and results unsatisfactory.



*Courtesy, Department of Agriculture.*

### PRESENT METHODS OF IRRIGATION

utive or secret session. Ratification requires the affirmative vote of two thirds of the Senators present. If finally accepted by both nations, duplicate parchment copies signed by the accredited representatives are exchanged; and the President then publishes the treaty by means of a proclamation. By a provision of the federal constitution, treaties are made a part of the supreme law of the land; and hence any conflicting provision of a State law or constitution is thereby abrogated.<sup>1</sup>

**265. Legislative Powers.** The powers of the President in legislation may be considered under three heads: (1) his power of convening and adjourning Congress upon extraordinary occasions; (2) his power to recommend desirable legislation; (3) his power to veto any measure passed by Congress.

**266. Convening and adjourning Congress.** Unforeseen contingencies may arise during the recess of Congress which imperatively require the assembling of that body; hence the constitution provides that the President may, "on extraordinary occasions, convene both houses or either of them."<sup>2</sup> A newly inaugurated President often calls an extra session of the Senate alone, to consider nominations to cabinet offices and other important positions; and in exceptional cases it may be necessary to convene the Senate in special session for the consideration of a treaty.

**267. Power to recommend Legislation.** The constitution enjoins upon the President the duty to "give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."<sup>3</sup> Under Washington and Adams, it was the practice for the President to deliver an oral address to the two houses assembled in joint convention. Jefferson inaugurated the present custom of sending to

<sup>1</sup> Treaties and laws of Congress are of equal authority; and if there is a conflict between a statute and a treaty, the later law whether statute or treaty prevails; and the earlier one is, to the extent of the conflict, displaced.

<sup>2</sup> *Constitution*, Art. II, Sec. 3.

<sup>3</sup> *Constitution*, Art. II, Sec. 7.



each house by a private secretary a written copy of the annual message.<sup>1</sup> This document generally discusses the important political questions of the day, points out defects in existing legislation, and suggests remedies. It is not customary for the President or his cabinet to prepare and present bills, although proposed measures are often submitted to him for comment, and are sometimes drawn in accordance with his suggestions. But with regard to most legislation, the President's initiative is limited to suggesting or outlining desirable policies; and for the adoption of his recommendations he relies upon private conference with members and committees, and upon personal influence with the party and committee leaders in each house.

**Modes of dealing with bills** 268. **The Presidential Veto.** By far the most important of the President's legislative powers is his veto. Every bill, order, resolution, or vote to which the concurrence of the two houses is necessary (except a question of adjournment or a proposed constitutional amendment) must be presented to the President for his approval. When a bill is sent to the President, he may deal with it in one of four different ways. (1) He may sign it, whereupon it becomes a law — the usual course with most bills. (2) He may leave it unsigned, and at the end of ten days (Sundays excepted), it becomes a law without his signature. (3) He may veto the bill — that is, return it with his objections to the house in which it originated. The objections are then entered at large upon the journal, whereupon the bill can become a law only by being passed by a two-thirds vote of each house; and the vote in such cases must be by roll-call. (4) In case Congress adjourns before the expiration of the ten days given to the President for the consideration of every bill, he may defeat the measure by refraining from signing it — this being an exercise of the so-called "pocket veto."

<sup>1</sup> However, President Wilson has followed the precedent established by Washington and Adams, and read his annual message to the two houses assembled in joint convention.



The presidential veto is thus a limited or qualified one, operating as a salutary check on hasty or ill-advised legislation. Originally designed as a check upon unconstitutional measures, especially legislative encroachments upon the executive or judiciary, the veto power has been freely used in practice to defeat legislation deemed by the executive to be unwise or inexpedient. Hence the principle is now well settled that the President is to use his independent judgment on every bill passed by Congress, "not sheltering himself under the representatives of the people, or foregoing his own opinion at their bidding."

Theory of  
the veto  
power

The use of the veto power is restricted by the fact that the President must approve or reject the bill as a whole; he cannot, for example, veto particular items in an appropriation bill. Hence measures which otherwise could not receive the executive sanction are sometimes inserted as "riders" in appropriation bills, thereby compelling the Executive either to accept the obnoxious rider, or to incur the responsibility of defeating indispensable appropriations.

Riders

**269. Judicial Powers.** The President has power "to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."<sup>1</sup> "A pardon is an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual on whom it is bestowed from the punishment the law inflicts for a crime he has committed." The language conferring this power is general, and hence the pardon may be absolute or conditional; may be issued before or during the trial of the accused, or after conviction and sentence; and may be granted to one or a class of individuals. The President's power to pardon extends only to offenses against federal, not State laws; and he cannot pardon in case of impeachment.

Pardoning  
power

<sup>1</sup> *Constitution*, Art. II, Sec. 2.

A reprieve is simply the suspension of a sentence, deferring its execution without changing the substance of the punishment.

### GENERAL REFERENCES

- Ashley, R. L., *The American Federal State* (1903), secs. 337-351.  
 Beard, C. A., *American Government and Politics* (1910), ch. x.  
 ——— *Readings in American Government and Politics* (1910), ch. x.  
 Black, H. C., *American Constitutional Law* (1897), pp. 97-122.  
 Bryce, James, *The American Commonwealth* (1907), I, ch. vi.  
 Cooley, Thomas M., *Constitutional Law* (1898), ch. v.  
 Fairlie, J. A., *National Administration of the United States* (1905), chs. I-II.  
 Fish, C. R., *The Civil Service and the Patronage* (1905).  
 Hamilton, Jay, and Madison, *The Federalist* (ed. by Lodge, 1904), nos. LXXIII-LXXVII.  
 Harrison, Benjamin, *This Country of Ours* (1903), chs. VI-X.  
 Mason, E. C., *The Veto Power* (1890).  
 McClain, E., *Constitutional Law* (1905), chs. XIX-XXIII.  
 Munro, William B., *The Government of the United States* (1920), pp. 105-125.  
 Pomeroy, J. N., *Constitutional Law* (10th ed., 1888), secs. 628-714.  
 Reinsch, P. S., *Readings on American Federal Government* (1909), chs. I-III, XIII.  
 United States Civil Service Commission, *Last Annual Report*.  
 Wilson, Woodrow, *Constitutional Government in the United States* (1908), ch. III.  
 Woodburn, James A., *The American Republic and its Government* (1908), pp. 142-194.  
 Young, James T., *The New American Government and its Work* (1915), ch. II.

### QUESTIONS AND EXERCISES

1. May Congress assign to the President duties not specified in the constitution? Or forbid the exercise of duties imposed by the constitution?
2. May Congress require the President to state reasons for an official action?
3. May the President be sued on account of an official action? May he be summoned as a witness?
4. What powers may the President exercise under his authority to execute the laws of the Union?
5. Prepare a report upon the military powers exercised by President Lincoln during the Civil War.
6. Explain how the President may involve the country in war notwithstanding the right to declare war is vested in Congress.
7. Prepare a report upon the President's power to suppress domestic violence as exemplified by President Cleveland's action in 1894. (*McClure's Magazine* (1904), XXIII, 227-240.)
8. May Congress designate persons to be promoted in the military service? In creating an office, may Congress designate the person who shall fill it?
9. May Congress provide by law that an executive official shall hold office during good behavior?

## THE PRESIDENT'S POWERS AND DUTIES 197

10. May Congress by statute require the heads of departments to be responsible directly to Congress?
11. Give a history of the Tenure of Office Act of 1867.
12. Has the Senate any control over removals? Why should the President alone exercise the power of removal?
13. May Congress by statute provide that the President shall state reasons for removals?
14. Prepare a list of the principal officers appointed by the President subject to confirmation by the Senate; of officials appointed by the President alone; by the heads of departments.
15. Compare the President's power of appointment with that of your State governor; of your mayor.
16. Make the same comparison with regard to the President's power of removal.
17. May an official of the United States at the same time hold office under a State or territorial government?
18. Prepare a report upon the Spoils System.
19. Prepare a report upon Civil Service Reform.
20. Examine a copy of the President's message to Congress and ascertain: (a) what topics receive most consideration; (b) what recommendations are made as to legislation. State which of these recommendations were enacted into law.
21. May the President sign a bill after Congress adjourns?
22. May either house require the President to submit papers?
23. Was President Johnson bound to carry out the reconstruction acts which he vetoed?
24. What would be the advantage of giving the President power to veto part of a bill? How could this be done?
25. Discuss fully the treaty which closed the Spanish-American War, especially (a) the process of negotiation, (b) the chief provisions, (c) the method of ratification.
26. Has the House of Representatives any control over treaties?
27. Is there any limitation upon the President's pardoning power?



## CHAPTER XX

### THE EXECUTIVE DEPARTMENTS

270. **The Federal Executive Departments.** Ten federal executive departments have been created by Congress to assist the President in carrying out his executive and administrative duties; and the heads of these departments comprise what is popularly called the President's cabinet. The executive departments are not directly established by the constitution, but are recognized in the clause providing that the President "may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices."<sup>1</sup>

The executive departments were organized by Congress in the following order:—

State, 1789; War, 1789; Treasury, 1789; Post Office, 1794;<sup>2</sup> Navy, 1798; Interior, 1849; Justice, 1870;<sup>3</sup> Agriculture, 1889;<sup>4</sup> Commerce, 1903; Labor, 1913.

271. **The President's Cabinet.** The heads of these ten departments are appointed by the President, subject to the consent of the Senate. Since they are his confidential advisers, each President ordinarily forms a new cabinet, the members of which hold office during his pleasure. Sometimes the President selects for cabinet positions men who have had little experience in politics, but more frequently he chooses prominent party leaders. Cabinet meetings are generally held twice a week

Constitu-  
tional  
provision

Appoint-  
ment and  
meetings

<sup>1</sup> *Constitution*, Art. II, Sec. 2, Par. 1.

<sup>2</sup> The Postmaster-General did not become a member of the cabinet until 1829.

<sup>3</sup> The office of attorney-general has existed since 1789, although the Department of Justice was not organized in its present form until 1870.

<sup>4</sup> The Department of Agriculture was organized in 1862, but the Secretary did not become a cabinet officer until 1889.

during the greater part of the year, special meetings being called as occasion demands. The President also confers frequently with individual members. The cabinet is an advisory body only, and the President may act in opposition to the wishes of any or all of his secretaries.

The American cabinet is in marked contrast with the cabinet in Great Britain and many other European countries. There the term cabinet denotes a parliamentary ministry, that is, a group of men chosen from the majority party in the legislature, to which body they are accountable. The cabinet members have seats in the legislature, where they initiate legislation and defend the measures which they introduce. Responsibility for the administration rests upon them, and when they cease to have the support of a majority of the legislature, they are expected to resign, in order that a new cabinet may be formed. The American cabinet, on the other hand, is accountable not to the legislature but to the President. Its members may not serve in Congress, and hence they do not introduce and defend measures in that body. An adverse vote of Congress could not remove them from office, since they are appointed by the President, and responsible to him for their administration of affairs.

American  
and Euro-  
pean cab-  
inets

272. **The Department of State.** The Secretary of State ranks first among the members of the cabinet. His chief duty is to conduct the foreign affairs of the government under the direction of the President. He issues instructions to our ministers and consuls, conducts treaty negotiations, receives and presents to the President the representatives of foreign powers, issues passports to American citizens traveling abroad, and in general has charge of all matters relating to foreign affairs.

Control of  
foreign  
affairs

The Secretary of State also has important domestic duties. He has the custody of the great seal of the United States; has charge of the publication of federal statutes and executive proclamations; keeps the

Domestic  
duties

archives containing the originals of all laws, treaties, and foreign correspondence; and serves as the medium of communication between the President and the State governors.

The Department of State includes seven bureaus — the diplomatic bureau, consular bureau, and the bureaus of indexes and archives, of accounts, of rolls and library, of appointments, and of citizenship. At the head of each bureau is a chief; and the Secretary of State is further aided in his work by three assistant secretaries of state, who have immediate supervision of diplomatic and consular correspondence.

**Bureaus** 273. **Department of the Treasury.** The chief business of the Treasury Department is the supervision of the national finances. The Secretary of the Treasury prepares plans for the improvement of the public revenue, and annually submits to Congress estimates of probable receipts and expenditures. He supervises the collection of customs and internal revenue; prescribes the forms for keeping public accounts; issues warrants for all money paid out of the treasury; selects the depositories of public moneys; makes loans by issuing bonds for the protection of the gold reserve or for other purposes; and supervises the many bureaus in the Treasury Department. Three assistant secretaries have immediate charge of certain bureaus, and perform such other duties as the Secretary may assign to them.

**Duties of Secretary** The department organization includes the following officers: the treasurer, the register, the comptroller of the currency, the director of the bureau of the budget, the commissioner of internal revenue, director of the mint, director of the bureau of engraving and printing, chief of the secret-service division, superintendent of the life-saving service, the supervising architect, and the surgeon-general.

**Departmental organization** 274. **The Department of War.** The Secretary of War has charge of all matters pertaining to national defense and sea-



coast fortifications, the administration of the insular possessions, river and harbor improvements, and the prevention of obstructions to navigation. He prepares estimates of appropriations for the expenses of his department, supervises all expenditures for the support and transportation of the army, issues orders for the movements of troops, recommends appointments and promotions, and has charge of the Military Academy at West Point.

The administrative work of the War Department is carried on by numerous bureaus. At the head of each is an army officer detailed for a period of four years. These officers are as follows, the title indicating the functions of each: the adjutant-general, inspector-general, surgeon-general, chief of ordnance, chief signal officer, chief of engineers, chief of the coast artillery division, chief of the militia bureau, chief of the quartermaster corps, judge-advocate-general, chief of the air service, chief of the chemical warfare service, and the chief of the bureau of insular affairs.

In order to unify the work of the several bureaus, and to harmonize the relations between the staff officers (in charge of bureaus) and the line officers (in charge of troops), Congress in 1903 created the general staff, which is in effect a supervising military bureau. The chief of staff, an army officer designated by the President for a term of four years, has general supervision over the administrative bureaus, as well as control of all troops of the line. In addition to the chief, the general staff consists of officers of various ranks who prepare plans for the national defense, investigate and report upon the efficiency of the army, advise the Secretary of War, and aid in coördinating the work of the several administrative bureaus.

275. **The Department of Justice.** The Attorney-General is the head of the Department of Justice, and the chief law officer of the government. He represents the government in all cases to which the United States is

a party, and gives his advice and opinion concerning questions of law to the President or to the heads of the executive departments. He exercises general supervision over the federal district attorneys and marshals, receiving their reports and examining their accounts; examines the title to lands which the government intends to purchase for public purposes; and makes an annual report to Congress concerning the business of his department. To the Department of Justice is also assigned supervision of the penal and reformatory institutions of the United States, the investigation of applications for pardons, and supervision of the commission to codify the federal criminal laws.

The second law officer of the Department is the solicitor-general, who assists in the general duties of the Department and acts as Attorney-General in case of vacancy in that office.

276. **Post-Office Department.** The Postmaster-General is charged with the general supervision of the postal service.

**Duties of Postmaster-General** He awards and executes contracts for the transportation of the mails, and directs the management of the domestic and foreign mail service. There are four assistant postmasters-general, each of whom has charge of a group of services within the department.

The business of carrying letters is a government monopoly, private competition being strictly prohibited. In the carrying of books or merchandise, competition is allowed, and the sender may choose between the express company and the postal service.

**Letter-carrying a monopoly** In many European countries, the post office department through the parcel post carries on what amounts to an express business. Yielding to a general demand for a similar service in this country, Congress in 1912 authorized the establishment of a parcel post. Packages weighing up to fifty pounds may now be sent through the post office.

Nearly all the principal countries conduct a system of





THE LIBRARY OF CONGRESS  
Washington, D. C.



THE PATENT OFFICE  
Washington, D. C.





*(By courtesy of the Monahan Express Company)*

### THE POST OFFICE AT NEW YORK CITY

The trucks in the foreground are used in the Parcel Post delivery service. A legend on the cornice of the building reads: "Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds."



*(By courtesy of the Treasury Department)*

### THE POST OFFICE AT ATLANTA, GEORGIA

One of the newest buildings.

postal savings-banks in connection with the post office, and Congress in 1910 authorized such a system Postal savings-banks for the United States. The telegraph system in foreign countries is commonly controlled through this department, but in the United States it has remained in private hands.

**277. Department of the Navy.** The Secretary of the Navy, aided by an assistant secretary, superintends the construction, armament, and employment of war vessels, and also exercises general supervision Duties of Secretary over the naval service. This Department has charge of the Naval War College at Newport, and the Naval Academy at Annapolis.

The administrative work of the Department is carried on by eight bureaus, the names of which indicate the work done. These are the bureaus of ordnance, navigation, yards and docks, supplies and accounts, Bureaus steam engineering, medicine and surgery, aeronautics, and construction and repairs. Most of these are in charge of line officers of the navy, with the rank of rear admiral; and other naval officers are assigned to bureau duties from time to time, this service alternating with service at sea.

**278. Department of the Interior.** In the importance and diversity of its business, the Department of the Interior ranks as one of the greatest of the executive departments. The Secretary of the Interior (aided Diversity of duties by two assistant secretaries) is charged with the supervision of the public lands and surveys, pensions, patents, Indian affairs, education, and the geological survey. He also supervises the national parks and reservations, and the organized territories; distributes the appropriations for agricultural and mechanical colleges throughout the Union; and supervises certain hospitals and charitable institutions in the District of Columbia.

The business of the Department is carried on by various bureaus: the general land office, bureau of patents, bureau



of pensions, office of Indian affairs, bureau of education, geological survey, reclamation service, and the bureau of mines. Each bureau is in charge of a principal officer called a commissioner, who is appointed by the President with the consent of the Senate.

**Bureaus** 279. **The General Land Office.** The commissioner of the general land office has charge of the survey, management, and sale of the public domain. Nearly two thirds of the present area of the United States has at one time or another formed a part of the public domain belonging to the national government. This immense territory has been acquired by cession, purchase, and conquest. The greater part has been disposed of in various ways, chiefly by sale at a nominal price to individual settlers, or as bounties for military or naval service, or as grants to corporations for the purpose of aiding the construction of railroads, or as grants to the States in aid of education and internal improvements.

About 700,000,000 acres of public lands are still owned by the national government, more than one half of which is in Alaska, and most of the remainder in the States west of the 104th meridian. Under the **Homestead Act** Home-  
stead Act, any adult citizen of the United States who is the head of a family, and is not already the proprietor of 160 acres of land, is entitled to enter a quarter section (160 acres) of unappropriated public land. He may acquire title by maintaining his residence upon it, improving and cultivating the land for a period of three years, and the payment of nominal fees.

Generally, before public land is opened for sale, it must be surveyed according to the rectangular system adopted in the **Survey of public lands** Ordinance of 1785. Under this plan the lands are divided by north and south lines along the true meridian, and by others running east and west so as to form townships as nearly as possible six miles square. Townships are divided into sections, one mile square or 640 acres,



as nearly as may be; and the sections in each township are numbered consecutively from one to thirty-six. Sections are further subdivided into half-sections of 320 acres, and quarter-sections of 160 acres.

Within the last few years, several million acres of arid land have been reclaimed through irrigation projects constructed by the national government. Lands thus made available for agriculture are open to **Irrigation projects** settlers upon payment, in small annual installments, of a sum which ultimately will cover the cost of the irrigation projects.

**280. The Department of Agriculture.** The Secretary of Agriculture has general supervision over all scientific investigations relating to the agricultural industry. **Work of the Department** He directs the investigations and experiments designed to give farmers useful information concerning soils, grains, fruits, and stock. Through his Department, millions of packages of seeds are distributed gratuitously, and with them is sent information obtained by constant experiment. The Secretary has charge of quarantine stations for imported cattle, and the inspection of domestic meats and imported food products. The Department issues a large number of scientific and technical publications, including the Year-Book, the series of Farmers' Bulletins, the Monthly Weather Review, and the Crop Reporter.

The organization of the Department of Agriculture includes the following bureaus and divisions, the titles of which indicate the nature of the work performed: **Department organization** the weather bureau, bureau of animal industry, bureau of plant industry, forest service, bureau of chemistry, bureau of soils, bureau of statistics, bureau of entomology, bureau of biological survey, office of experiment stations, division of accounts and disbursements, division of publications, library, and office of public roads.

The weather bureau renders especially important service in forecasting storms, thus preventing many losses to agri-

culture and commerce. Meteorological observations are taken at over two hundred stations, and the information is forwarded to the central office at Washington, where weather predictions for the succeeding day or days are made. The predictions are given to the public through a system of flag signals, by the distribution of weather maps, and by publication in the daily papers.

**Weather bureau** The forest service has charge of the national forest reserves, now amounting to about 190,000,000 acres. By creating these reserves, the federal government has checked the threatened deforestation of our country; and the constant patrolling by forest-service rangers has prevented many disastrous fires, as well as thefts by lumber thieves. From time to time the forest service plants large areas with trees suitable to the climate and soil of the particular region.

**Forest service** 281. **Department of Commerce.** The Department of Commerce fosters, promotes, and develops the foreign and domestic commerce, the mining, manufacturing, shipping, and fishing industries, and the transportation facilities of the United States. This Department has charge of the promotion of American manufactures, the census, statistics, lighthouses, coast survey, and steamboat inspection.

**Functions of Department** The Department organization includes many important bureaus: the bureau of foreign and domestic commerce, bureau of lighthouses, bureau of the census, coast and geodetic survey, steamboat-inspection service, bureau of fisheries, bureau of navigation, and bureau of standards.

**Bureaus** 282. **Department of Labor.** This is the youngest of the executive departments, having been created in 1913. The department of labor performs for the labor interests of the country services similar to those performed for agriculture and commerce by their respective departments. It collects and publishes information upon all

**Services**

subjects connected with labor, especially its relation to capital, the hours and wages of labor, and the means of advancing the interests of the laboring classes. The department serves the general public, as well as labor and capital, by endeavoring to preserve industrial peace, and to adjust labor disputes through conciliation.

One of the most important bureaus in this department is the bureau of immigration which supervises the administration of our immigration laws. The bureau of naturalization has charge of the administration of our naturalization laws, in accordance with which aliens are admitted to citizenship. There is also a children's bureau, which investigates matters pertaining to the welfare of children and child life, such as the employment of children in industry, especially in dangerous occupations; also such subjects as infant mortality, desertion, orphanage, and juvenile courts.

**283. Independent Boards and Commissions.** In addition to these ten executive departments, the heads of which form the President's cabinet, there are several independent boards and commissions which perform executive business not assigned to any of the departments. The most important of these are the Interstate Commerce Commission, Federal Trade Commission, the Civil Service Commission, the United States Tariff Commission, the Federal Reserve Board, Federal Farm Loan Board, Federal Board for Vocational Education, Board of Mediation and Conciliation, and the Railroad Labor Board.

Besides the foregoing boards and commissions, several important national institutions are administered independently of the regular executive departments. These include the Smithsonian Institute, the Pan-American Union, the Government Printing Office, the Library of Congress, and others.



## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. xi.  
 Bryce, James, *The American Commonwealth* (1907), I, pp. 86-96.  
 Congressional Directory, *Summary of Departmental Duties*.  
 Fairlie, John A., *The National Administration of the United States* (1905), pp. 54-262.  
 Finley, John H., *The American Executive and Executive Methods* (1908), ch. xvi.  
 Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. ix.  
 Various Authors — *History-Making, The Story of a Great Nation* (1910).  
 Woodburn, J. A., *The American Republic* (1908), pp. 189-194.

## QUESTIONS AND EXERCISES

1. What is the meaning of "department" as the term is used in the constitution? Why is our cabinet said to be extra-constitutional?
2. Could Congress require the President to consult and follow the judgment of his cabinet?
3. Could Congress by statute give seats in either house to cabinet officers? What would be the advantages of this plan?
4. Name the members of our present cabinet. Which States are represented?
5. What is the purpose of the International Bureau of American Republics? (Barrett, John, in *History-Making*, pp. 50-52.)
6. Consult the Congressional Directory and other sources, and prepare a short report upon the duties of the State Department.
7. Prepare a similar report upon the work of each of the other executive departments.
8. Cite facts which tend to prove that our post office is the largest business enterprise in the world.
9. Give arguments for and against government ownership of railways and telegraph lines.
10. Report upon the work of the general land office. (Congressional Directory; also Dennett, Fred, in *History-Making*, pp. 40-43.)
11. Describe the work of the reclamation service. (Newell, E. H., in *History-Making*, pp. 188-190.)
12. In what ways does the federal government promote agriculture?
13. Prepare a report upon the scientific work of the federal government. (*History-Making*, pp. 29, 83, 98, 149, 183, 188; Reinsch, P. S., *Readings*, pp. 419-432.)
14. Discuss the work of the Civil Service Commission. (Kaye, P. L., *Readings in Civil Government*, pp. 232-242; Reinsch, P. S., *Readings*, pp. 683-702.)
15. Describe the work of the census bureau.
16. What department has charge of the erection of federal buildings? Of river and harbor improvements? Of the granting of patents? Of immigration? Of the collection of customs? Of the infringement of the rights of our citizens abroad?
17. Readings on the executive departments: Kaye, P. L., *Readings*, pp. 211-225; Reinsch, P. S., *Readings*, pp. 362-460; Beard, C. A., *Readings*, ch. ix.

## CHAPTER XXI

### THE FEDERAL JUDICIARY

284. **The National Courts.** The constitution vests the judicial power of the United States in one Supreme Court, and in such inferior courts as Congress may see fit to establish. In accordance with this provision, Judiciary Act of 1789 Congress in 1789 passed the Judiciary Act drafted by Oliver Ellsworth, which with modifications still forms the basis of our judicial system. This act organized the Supreme Court, and also created circuit and district courts; it apportioned the federal jurisdiction among the three grades of courts; created the office of Attorney-General, and provided for a marshal in each judicial district.

In 1891 Congress created nine "circuit courts of appeals" in order to relieve the Supreme Court of part of its former appellate jurisdiction. By an act which became effective January 1, 1912, Congress abolished the Three grades of courts circuit court, vesting its former powers and duties in the district court. Hence there are now three grades of federal courts — the Supreme Court, the circuit court of appeals, and the district court.

285. **Federal Judges.** In 1911 the number of federal judges was as follows: Supreme Court justices, nine; circuit judges, twenty-nine; district judges, ninety-one. All United States judges are appointed by the President, subject to confirmation by the Number, appointment, term Senate; and their term of office is for life, or during good behavior. Federal judges are thus made independent both of the appointing power and of the popular will, since they can be removed from office only by conviction on impeachment charges.

Judges receive a compensation which may be increased but cannot be diminished during their continuance in office.

**Compensation** The justices of the Supreme Court are paid \$14,500 a year (the chief justice receiving an additional \$500); circuit judges, \$8500; and district judges, \$7500. Any judge who has held his commission at least ten years may resign on attaining the age of seventy years, and continue to draw full salary during the remainder of his life.

**Limited Jurisdiction** 286. **Jurisdiction of the Federal Courts.** The federal courts authorized by the constitution are courts of limited, not of general, jurisdiction; that is, they have authority to try only such cases as are specifically placed within their jurisdiction by the provisions of the federal constitution and the laws enacted by Congress. The nine classes of cases enumerated in the constitution may be grouped under two general heads: (1) cases in which the federal jurisdiction depends upon the character of the suit; (2) cases in which the federal jurisdiction depends upon the character of the parties.

287. **Jurisdiction depending upon Character of Suit.** The class of cases in which jurisdiction depends upon the character of the suit includes: (a) cases in law or equity arising under the constitution or laws of the United States, or treaties made under their authority. (b) Cases of admiralty and maritime jurisdiction. (c) Controversies between citizens of the same State claiming lands under grants of different States.

The most important cases within this group are those arising under the federal constitution, laws, or treaties; for **Cases under federal law** it is by virtue of this authority that the national courts are enabled to maintain and enforce the provisions of the federal constitution, as well as the laws and treaties made under its authority. In order to come within the federal jurisdiction, it must appear that some right, title, privilege, or immunity claimed by one of the parties in-



volves a construction of the federal constitution, laws, or treaties. Thus, if one of the parties claims that a State law affecting his rights is a law which impairs the obligation of contracts, the case is within federal jurisdiction, since it involves the construction of the federal constitution.<sup>1</sup> Or if one holding a patent from the federal government desires to bring suit for infringement, this would be a case arising under the laws of the United States, since patents are granted only by federal law.

**288. Jurisdiction depending upon Character of Parties.** The second group of cases, wherein federal jurisdiction depends upon the character of the parties, in- Enumera-  
tion of casescludes: (a) cases affecting ambassadors, other public ministers, and consuls. (b) Controversies to which the United States is a party.<sup>2</sup> (c) Controversies between two or more States. (d) Controversies between a State and citizens of another State. (e) Controversies between citizens of different States. (f) Controversies between a State, or the citizens thereof, and foreign States, citizens, or subjects. It is apparent that this group of cases includes those controversies whose determination by a federal tribunal is necessary to secure harmonious foreign and interstate relations, or to secure an impartial decision concerning the rights of citizens of the several States.

**289. The Federal Judicial System.** As already stated, the judicial power of the United States is vested in a system of courts of three grades: the district courts, Three grades  
of courts circuit courts of appeals, and the Supreme Court. The Supreme Court is expressly provided for by the constitution, and is therefore largely independent of Congress. The courts of the other two grades are statutory courts; that is, they are created by Congress, which body may alter their jurisdiction or abolish them entirely, at its discretion.

<sup>1</sup> Article I, Section 10, of the constitution provides that no State shall pass any law impairing the obligation of contracts.

<sup>2</sup> This includes all federal criminal suits; also suits by the United States against individuals for debt, for the non-fulfillment of contracts, or for wrongful possession of property.

**290. Federal District Courts.** The federal courts of lowest grade are the district courts, one of which exists in each of the ninety-two districts into which the United States is divided. No district includes more than one State, but many States are divided into two or more districts. Each district ordinarily has its own district judge, who holds court at one or more places within the district.

The district court is a court of general original jurisdiction,<sup>1</sup> both civil and criminal; that is, it is the court in which

**Jurisdiction** all cases coming under federal jurisdiction are begun and first tried (except those cases in which the Supreme Court has original jurisdiction). The district court has jurisdiction of: (1) all crimes and offenses cognizable under the authority of the United States; (2) all civil cases brought by the United States or one of its officers; (3) cases between citizens of the same State claiming lands under grants from different States; (4) cases arising under the federal constitution, laws, or treaties, provided the amount in controversy exceeds \$3000;<sup>2</sup> (5) controversies between citizens of different States, or between citizens of a State and foreign states, citizens, or subjects, provided the amount involved exceeds \$3000; (6) admiralty and maritime cases; (7) suits arising under the patent, copyright, and trade-mark laws; (8) cases arising under the internal revenue, customs,<sup>3</sup> and postal laws; (9) suits arising under the laws regulating commerce; (10) suits against consuls and vice-consuls; (11) proceedings in bankruptcy; (12) suits under the immigration and contract labor laws; (13) suits and proceedings arising under the law to protect trade and commerce against restraints and monopolies; (14) suits to enforce the rights of citizens of the United States to vote in the several States; (15) suits brought by any person to

<sup>1</sup> Original jurisdiction is the power to hear or decide a legal controversy, or to administer a remedy, in the first instance. Appellate jurisdiction is the power to review the decision of some other court.

<sup>2</sup> If the amount is less than \$3000 the action must be brought in the State courts.

<sup>3</sup> Except where jurisdiction has been conferred upon the Court of Customs Appeals.

redress the deprivation of any right, privilege, or immunity secured by the federal constitution or laws.

Generally speaking, cases which have been brought in the State courts and could have been brought originally in the federal district court may be re-  
**Removal**  
moved by the defendant under certain restrictions from the State court to the federal district court.

**291. Federal Circuit Courts of Appeals.** In order to relieve the work of the Supreme Court, the court known as the circuit court of appeals was established in  
**Establishment**  
1891 in each of the nine circuits. This court consists of three judges (two of whom constitute a quorum) selected from the following list: the Supreme Court justice assigned to the particular circuit, the circuit judges, and the district judges of the circuit.

The circuit court of appeals has appellate jurisdiction to review the decisions of the district courts, except in cases in which appeals and writs of error may be taken  
**Jurisdiction**  
direct to the Supreme Court. The judgments and decrees of the circuit court of appeals are generally final in cases where the jurisdiction results from the fact that the suit is one between a citizen and an alien, or between citizens of different States. This court also has final jurisdiction in cases arising under the patent and copyright laws, the revenue laws, the criminal laws, and in admiralty cases.

**292. The Federal Supreme Court.** The Supreme Court consists of one chief justice and eight associate justices, six of whom constitute a quorum. This court sits  
**Organization and procedure**  
at the national capital, its sessions being held annually, commencing on the second Monday in October. After a case has been tried before the court, the opinion of a majority of the judges is ascertained, and the chief justice then assigns to one of his associates the task of writing the decision. This is then read before the others, and if accepted by a majority it becomes the decision of the court.



The jurisdiction of the Supreme Court is of two kinds, original and appellate. Its original jurisdiction, being pre-  
**Original** scribed by constitutional provision, cannot be  
**jurisdiction** abridged or extended by statute. The Supreme Court has original jurisdiction (1) in all cases affecting ambassadors, other public ministers, and consuls; (2) in cases in which a State is a party. The original jurisdiction of the Supreme Court has been resorted to principally to settle controversies between the States.

The appellate jurisdiction of the Supreme Court is subject to the control of Congress, and may be enlarged  
**Appellate** or restricted by that body. The Supreme Court  
**jurisdiction** now hears appeals from the inferior federal courts as follows: (1) Cases from the district court in which the jurisdiction of the court is in question; final decrees in prize cases; cases involving the construction or application of the constitution of the United States, or of a federal law or treaty; cases in which the constitution or law of a State is claimed to be in contravention of the constitution of the United States. (2) Certain cases may be certified to the Supreme Court by the circuit court of appeals, or may be removed from that court by direction of the Supreme Court. (3) In certain cases the Supreme Court passes upon appeals from the supreme courts of the territories, the supreme court of the District of Columbia, and from the Court of Claims.

(4) Finally, the Supreme Court has power to hear appeals from State courts of last resort in cases involving a federal

**Appeals** question, where the decision of the State court is  
**from State** against the validity of a federal statute or treaty  
**courts** or authority exercised under the United States; or where the decision of the State court is against the title, right, privilege, or immunity claimed by either party under the constitution, laws, treaties, or authority of the United States; or where the decision of the State court is in favor of a State statute or constitutional provision which is

claimed to be repugnant to the federal constitution, laws, or treaties.

**293. Special United States Courts.** The three courts described above constitute the national judicial system, and exercise the judicial powers prescribed in the federal constitution. But in the exercise of its Court of Claims own authority, Congress has created several special tribunals. One of these is the Court of Claims (created in 1855), composed of five justices who sit at Washington. This court has authority to try claims against the United States, and if its judgment is in favor of the claimant, the sum may be paid by the Secretary of the Treasury from an appropriation made by Congress for this purpose.<sup>1</sup>

By the act of 1911, Congress created the Court of Customs Appeals. This court consists of five judges who have power to review the decisions of the Board of General Appraisers concerning the classification Court of Customs Appeals of imports and the rates of duty thereon.

In the exercise of its general power to legislate for the territories and the District of Columbia, Congress has provided a system of territorial courts. Under Territorial, consular, and military tribunals authority derived by treaty with certain nations as Turkey and China, Congress has given jurisdiction to United States consuls in those countries to try civil and criminal cases to which citizens of the United States are parties. Finally, under the power to "make rules for the government and regulation of the land and naval forces," Congress has provided courts-martial for the punishment of military and naval offenses.

**294. Exercise of Federal Judicial Power.** The federal courts possess all the powers belonging to courts of record, and necessary to the exercise of their jurisdiction and the satisfaction of their judgments. They ap- Powers of federal courts point their inferior officers, admit and disbar attorneys, punish for contempts, make rules of practice, and

<sup>1</sup> The award of the court is in the nature of a recommendation only, and if Congress makes no appropriation the claimant is without remedy.

issue all customary writs, the most important of which are writs of *habeas corpus*, *mandamus*, and *injunction*.<sup>1</sup>

In each judicial district there is a United States marshal, charged with the duty of enforcing the decrees and orders of the court. Like the sheriff, he may if resisted call a *posse* of citizens to his aid; or if this is not adequate, he may appeal to the President for federal troops. There is also in each district a federal public prosecutor, the United States district attorney, who institutes proceedings against persons who violate federal law. Marshals and district attorneys are under the direction of the United States Attorney-General, as head of the Department of Justice.

In exercising their jurisdiction, the courts have consistently adhered to the rule that they will not interfere in purely political questions, decision concerning which belongs to the executive or legislative departments. Such, for example, are questions of the existence of war or peace, the rightful government of a foreign state, the admission of a new State to the Union, the restoration to constitutional relations of a State lately in rebellion, or the right of Indians to recognition as a tribe.

Similarly, the courts have uniformly refused to decide abstract questions of constitutionality, or to give opinions upon questions not presented in the form of a concrete case between parties to a suit.

**295. The Law administered in the Federal Courts.** In the exercise of their jurisdiction, the federal courts may find it necessary to interpret and administer the federal law, as expressed in the federal constitution, statutes, or treaties; or State law, as expressed in the State

<sup>1</sup> The writ of *habeas corpus* is frequently invoked before federal courts in order to test the legality of an arrest under State authority. The writ of *mandamus* may be directed against individuals or corporations to compel them to perform their duties. The writ of *injunction* takes many forms, and is either a temporary or permanent restraining order forbidding persons to perform acts which would create consequences that could not be remedied by later suits.



constitution or statutes, or as embodied in the common law of the State. These laws are of different degrees of authority, the supreme law being the federal constitution, the provisions of which prevail over any other enactments, since whatever is not in accordance with the federal constitution is not law at all. A federal statute or treaty, if in conformity with the federal constitution, prevails as against any State constitution or statute. The State constitution is of higher authority than the State statute, while the State statutes prevail as against any principles of the common law which they contravene.<sup>1</sup>

**296. Declaring Legislative Acts Void.** Federal courts, like those of the States, exercise a twofold function. In common with the courts of all countries, they have the power of determining the meaning of a legislative enactment involved in any case before the court, and applying the law, when its meaning has been ascertained, to the particular case. But American courts have a second function which foreign judiciaries do not possess; for they have the power to decide whether the legislative enactment involved in the case before the court is one which the legislature is warranted under the constitution in passing — in short, whether the particular enactment is law at all.

**Unique  
power of  
American  
courts**

The federal constitution, we have seen, is the supreme law of the land, and Congress has only such legislative power as the constitution confers. It is the function of the judiciary to decide whether legislative or executive acts involved in cases before the court are in excess of the authority granted; for if so, they are null and void. This power likewise extends to acts of the State legislatures and provisions of the State constitutions, which, to be valid, must not conflict with any provision of federal law.

**Final inter-  
preter of  
the consti-  
tution**

<sup>1</sup> See diagram, p. 66.

## GENERAL REFERENCES

- Baldwin, S. E., *The American Judiciary* (1905).  
 Beard, C. A., *American Government and Politics* (1910), ch. xv.  
 Bryce, James, *The American Commonwealth* (1907), I, chs. XXII-XXIV.  
 Hart, A. B., *Actual Government* (1903), ch. xvii.  
 Landon, J. S., *The Constitutional History and Government of the United States* (1905), chs. XIII-XIV.  
 McClain, E., *Constitutional Law in the United States* (1905), chs. XXIV-XXIX.  
 Munro, William B., *The Government of the United States* (1920), pp. 342-371.  
 Willoughby, W. W., *The Supreme Court of the United States* (1890).  
 Wilson, Woodrow, *Constitutional Government in the United States* (1908), ch. vi.  
 Woodburn, J. A., *The American Republic and Its Government* (1908), ch. vi.

## QUESTIONS AND EXERCISES

1. What territory is included in your federal judicial district? Where is the court held? Name the district judge, the district attorney, and the marshal. For what term and by whom is each appointed?
2. Name the men who have held the position of chief justice. Which ones are most famous?
3. Prepare a report upon the influence of John Marshall as chief justice.
4. Compare the method of appointment and term of federal judges with that of the judges of your State supreme court.
5. Describe the process by which the United States Supreme Court renders a decision. By whom is the decision written, by whom reported, and where published? (Reinsch, P. S., *Readings*, pp. 716-717.)
6. May the President require the opinion of the Supreme Court upon a legislative measure? Whom should he consult?
7. How is the jurisdiction of the federal courts determined?
8. State the conditions under which a case may be appealed from the supreme court of your State to the United States Supreme Court.
9. Prepare a report showing how the federal courts protect the rights: (a) of the nation; (b) of the States; (c) of citizens.
10. Describe the power, process, and effect of declaring legislative acts unconstitutional. (*Marbury v. Madison*; *Thayer's Cases*, I, 107; McClain, E., *Constitutional Law in the United States*, pp. 19-25.)
11. Assuming that there is a conflict between the following laws, state which one prevails: (a) a city ordinance and a State statute; (b) a city charter and a State constitution; (c) a State constitution and a law of Congress; (d) a State statute and a law of Congress; (e) a State constitution and the federal constitution; (f) a law of Congress and a treaty; (g) a law of Congress and the federal constitution (Section 150).
12. Readings on the federal judiciary: Kaye, P. L., *Readings*, pp. 243-249; Reinsch, P. S., *Readings*, pp. 703-715; Beard, C. A., *Readings*, ch. xv.

## CHAPTER XXII

### EXPENDITURE AND REVENUE

297. **Growth of Federal Expenditures.** The total expenditures of the national government for the year ending June 30, 1919, exceeded four billion dollars, the objects of expenditure being shown in the table below. In 1860, the total federal expenditures amounted to \$63,200,000, or two dollars *per capita*, while in 1919 our annual expenditures were one hundred and forty-six dollars *per capita*. Thus the total volume of expenditure is now two hundred and forty times as large as it was fifty years ago, while the *per capita* expenditure is more than seventy times as large. It must be kept in mind that governments to-day perform many more services than formerly, and expenditures have grown larger as government activities have increased. Moreover, while the *per capita* expenditure has increased, wealth has also greatly increased, especially in the United States; and hence the increased expenditure does not necessarily mean a greater burden to the individual taxpayer.

#### FEDERAL RECEIPTS AND EXPENDITURES, YEAR ENDING JUNE 30, 1919 (In millions of dollars)

<i>Ordinary receipts</i>		<i>Ordinary disbursements</i>	
Customs.....	183	Civil and miscellaneous....	3,264
Internal revenue:—		War.....	9,220
Income and profits tax...	2,601	Navy.....	2,009
Miscellaneous.....	1,239	Indians.....	35
Miscellaneous revenue.....	625	Pension.....	222
Net postal revenue.....	2	Interest on public debt....	616
Total.....	4,650	Total.....	15,366

298. **Expenditures resulting from the World War.** When the United States entered the World War in defense of our national rights, the volume of federal expenditures increased enormously. The total appropriations of the Sixty-fifth



Congress at its first session were nearly seventeen billion dollars, while previous appropriations and contracts authorized made a grand total for the fiscal year 1918 of over twenty-one billion dollars. This amount included seven billions for loans to our allies; so that exclusive of these loans, the total appropriations for this year exceeded fourteen billion dollars.

**299. Control of Federal Expenditures.** Control of federal expenditures is vested in Congress under the constitutional provision that no money shall be drawn from the treasury except in consequence of an appropriation made by law.<sup>1</sup> The power of Congress over appropriations is subject to the executive veto, but the President cannot veto particular items of an appropriation bill. Most of the expenditures of the federal government are provided for in annual appropriation bills passed by Congress. In some cases, as for rivers and harbors and for public works, it is necessary to make permanent appropriations; that is, appropriations voted for a certain purpose without limitation as to time.

The constitution requires that "a regular statement and account of the receipts and expenditures of all public moneys shall be made from time to time."<sup>2</sup> In accordance with this provision, the Secretary of the Treasury lays before Congress at the beginning of each regular session a report known as the "Book of Estimates," giving: (1) a condensed statement of receipts and expenditures for the last fiscal year; (2) an estimate of the revenues and expenditures for the fiscal year about to be entered upon; (3) an outline of the fiscal policy desired by the administration. The Secretary's report is submitted to the Speaker of the House, who refers it to the appropriate committees.

Real control of financial policy is thus vested in the congressional committees; for while they may take the report of the Secretary of the Treasury as a

**Preparation  
of the  
budget**

**Financial  
committees**

<sup>1</sup> Constitution, Art. I, Sec. 9, Par. 7.

<sup>2</sup> Constitution, Art. I, Sec. 9, Par. 7.

basis for legislation, they are under no legal obligation to do so, and the recommendations of that official are often materially modified or even entirely rejected. The most important of the House committees is that on ways and means, which has almost exclusive control of plans for raising revenue. Only second in importance to the ways and means committee is the committee on appropriations. Formerly this committee reported all appropriation bills, but at present it reports only six bills, namely, the sundry civil bill; the legislative, executive, and judicial bill; the District of Columbia, pension, fortifications, and deficiency bills. Each of the other appropriation bills is assigned to a standing committee, so that the fourteen appropriation bills are reported by eight different committees.

Bills thus prepared are submitted to the House, and if passed by that body go to the Senate, where bills for raising revenue are referred to the finance committee, and appropriation bills to the committee on appro- Process of legislation priations. Both revenue and appropriation bills are freely amended by the Senate; and conference committees are often necessary to adjust the differences between the two bodies. After passing Congress, financial measures, like all other bills, must be submitted to the President for his approval or veto.

**300. Criticisms of Federal System of Finance.** Our system of public finance has been severely criticized by Bryce and other authorities, for the following reasons: —

(1) Responsibility for preparing the budget ought to be direct, personal, and complete; but under our practice, this responsibility is dispersed among independent committees of coördinate authority. The four- Responsibility dif- fused teen annual appropriation bills enacted by Congress are prepared by eight different House committees, each of which is independent of the rest, and all of which may ignore entirely the ways and means committee, whose business it is to raise the revenue, as well as the Secre-

tary of the Treasury, whose duty it is to suggest a fiscal plan.

(2) There is no direct relation between the amount proposed to be raised and the amount proposed to be spent in any one year. In most foreign countries, as in the case of our own States and cities, the necessary expenditures are calculated beforehand as closely as possible, and taxes are then levied to supply the necessary funds. Federal finance reverses this process; it first provides revenue without any special reference to the needs of the country, and then considers ways of expending the money raised.

(3) The executive branch of the government has insufficient authority in financial affairs. The Secretary of the Treasury, unlike the British Chancellor of the Exchequer, does not submit his financial projects in the form of bills which he defends on the floor of the House; he may only recommend measures for the consideration of committees. Moreover, since the President cannot veto particular items in appropriation bills, his authority over fiscal legislation is limited.

301. **Proposals for a National Budget System.** War expenditures running into the billions of dollars, coupled with the certainty that direct taxation must continue to be the main source of federal revenue after the war, led Congress to consider seriously the adoption of a budget system of appropriations. A bill was introduced outlining the following principles: —

(1) That the President should be made responsible for expenditures recommended by his department heads, and that he should collect these recommendations and pass on them as a total sum.

(2) That requests for appropriations should be submitted to Congress in minute detail, and in the form of one administration budget.

(3) That this budget should be considered by a single



committee in each house of Congress, instead of being introduced in a multitude of departmental bills to be considered by many different committees, as at present.

(4) That Congress should create as an adjunct to its appropriations committee an auditing department that would comb the administration budget for extravagances.

The budget system was finally established by an act of Congress passed in 1921. This law creates the bureau of the budget as an adjunct of the Treasury Department. This bureau prepares for the President the annual budget, together with such estimates as he may from time to time recommend to Congress. The head of each executive department appoints a budget officer charged with the duty of preparing the departmental estimate of appropriations. On or before September 15 of each year, the head of each department revises these estimates and submits them to the bureau of the budget, which has authority to correlate, revise, reduce, or increase the estimates. When directed by the President, the budget bureau is authorized to make detailed studies of the several executive departments and establishments, so as to enable the President to know what changes are advisable in the interest of economy and efficiency. Each executive department must furnish the bureau with such information as it may require, and the officials of the bureau have authority to examine the books and records of any department.

Establish-  
ment of the  
budget  
system

302. **Sources of Federal Revenue.** The ordinary revenues of the federal government are derived mainly from two sources, customs duties and internal revenue taxes. For example, in 1917 customs duties supplied about twenty per cent of our national income, while internal revenue yielded over seventy per cent of the total. The internal revenue of that year was derived from three taxes: ordinary internal revenue, commonly called excise taxes; the corporation income tax; and the individual income tax.

Customs  
and  
internal  
revenue

303. **Import Duties as a Source of Revenue.** Prior to the Civil War, the federal government derived nearly all of its income from import duties; while in 1917 only twenty per cent of the net revenue was derived from this source. Import duties may be defined as taxes imposed upon articles brought into the United States from foreign countries. Since the States are forbidden to levy imposts, this form of tax is reserved exclusively to the federal government.

Import duties are of two kinds, specific and *ad valorem*. Specific duties are those which are laid according to weight or number, without reference to the value of the article; while *ad valorem* duties are those levied in proportion to value. On some articles both forms of duty are levied.

The administration of customs duties is in charge of the Secretary of the Treasury, one of the assistant secretaries having immediate charge of the customs department. The entire country is divided into about fifty districts for the collection of customs. In each district there is a collector, who is aided by a surveyor, appraiser, and a staff of clerks, examiners, inspectors, and storekeepers.

304. **General Characteristics of Excise Taxes.** Excises may be defined as taxes levied upon the consumption, manufacture, or sale of commodities within a country. Like customs duties, excises are commonly borne by the consumers, who have to pay higher prices for the articles taxed. While somewhat inelastic and uncertain in character, they form a more stable and readily adjusted source of income than customs duties. Like the latter, they are based upon no rule of apportionment or equality, but are fixed charges laid on commodities without regard to the amount of property belonging to those who pay them.

To raise the immense revenues necessary for national defense in the World War, Congress resorted to taxation

on a large scale, besides borrowing immense sums through the sale of bonds and other securities. The tax law passed on October 3, 1917, was planned to <sup>War taxes of 1917</sup> produce \$2,500,000,000 of revenue during the ensuing year. The most important items in point of size were the tax on excess business profits, the tax on incomes, and the taxes on liquors and tobacco. There were also taxes on theater tickets and club dues, on promissory notes, deeds, and mortgages, on freight and express shipments, on telegrams, motion pictures, automobiles and tires, together with an increase in postage rates.

The administration of excise taxes is supervised by the commissioner of internal revenue, who is one of the bureau chiefs of the Treasury Department. The entire <sup>Revenue districts</sup> country is divided into a large number of districts, in each of which is a collector responsible for the enforcement of the revenue laws in his district. Special officers are employed to detect attempted evasions of the law.

Excise taxes are collected in two ways: (1) By requiring the producer or seller of such commodities as cigars or oleomargarine to pay a license fee for the right <sup>Collection of excises</sup> to carry on his occupation, whereupon a certificate is issued, which must be exposed in his place of business. (2) In addition to the license fee, each unit of the article is taxed by means of revenue stamps which must be pasted upon packages in such a way as to be necessarily broken when the package is opened.

**305. Characteristics of Income Taxes.** Income taxes are those levied in proportion to the income of the taxpayer. Theoretically, this is one of the most <sup>Definition</sup> just forms of tax, since it conforms more nearly to the ideal that taxes should be proportioned to the ability of the taxpayer; and income is conceded to be the best single indication of taxpaying ability. Moreover, the income tax cannot be easily shifted, but is generally borne by the persons on whom it is assessed. It is also an elastic



form of tax, and can be readily adapted to revenue needs. It has proven very successful in other countries; but under our form of government it is not practicable for the States, since if one commonwealth levies an income tax, its wealthy citizens may escape it by acquiring a legal residence in a neighboring State. Hence incomes can be successfully taxed only under federal law; and the sixteenth constitutional amendment (ratified in 1913) expressly authorizes Congress to tax incomes.

Congress has since passed three income tax laws. The present law levies an annual tax of not less than two per cent upon the net income of married persons in excess of \$2000; while for single persons the amount exempt is only \$1000. The rate of the tax increases with the size of the income, up to fifty per cent on incomes above \$1,000,000.

**306. Direct Taxes levied by the Federal Government.** On five occasions Congress has exercised its constitutional power to levy direct taxes proportioned among the States according to population. The first tax of this kind was levied in 1798, three others during the War of 1812, and one in 1861. The first four of these were laid upon real estate and slaves, the act of 1861 upon real estate alone. Except in the greatest emergency, it is unlikely that Congress will again levy direct taxes, since under the rule of apportionment the burden of such taxation weighs most heavily upon the poorer States.

**307. Anticipatory or Extraordinary Revenues.** In addition to the revenue secured from the sources already described, the federal government may obtain **Borrowing power** funds through the use of its credit. The constitution vests in Congress power "to borrow money on the credit of the United States," thus conferring the borrowing power in the broadest possible terms, so that it may be commensurate with the needs of government.

Governments generally borrow money by issuing bonds,

bills of credit (such as treasury notes), or other evidences of indebtedness. But Congress is not limited to Methods of borrowing methods of borrowing which are so clearly and directly adapted to the end in view; it may adopt any means it deems conducive to the efficient execution of the power, provided only that they are appropriate to the end, and legitimate, that is, within the scope of the constitution. Thus Congress may charter a federal bank, this having been held by the Supreme Court to be a necessary and proper means of carrying on the fiscal operations of government. Moreover, as an incident of the power to borrow money and provide a currency, Congress may establish a system of national and federal reserve banks, such as exists to-day. Not only may Congress issue bills of credit, such as treasury notes, but as an incident of the borrowing power, Congress may make such notes a legal tender for all public and private debts.

308. **Bond Issues.** In negotiating public loans, governments usually proceed by one of two methods. The first is to prepare the bonds or other evidences of indebtedness, fixing all the conditions (such as Subscription — first method the amount, time, and rate of interest), and then offer the securities to all buyers at the same price. This method of selling bonds by popular subscription was relied on by the national government in raising our great Liberty Loans, and proved very successful.

The second and more common method of marketing bonds is for the government to advertise that bids for a certain amount of bonds are desired. Bankers Competitive bids and capitalists then compete for the privilege of taking the bond issue in whole or in part. The bidders offer to provide the money at a certain rate of interest, or if the rate of interest and the amount of the bonds have been determined, offer to buy them at a certain rate, quoted as so much per hundred. The most favorable terms offered are then accepted, and upon delivering the money to the

government, the purchasers receive the bonds. In former times, our national government has often sold its bonds in this way, and this is still the usual method of selling State, city, and county bonds.

Fiscal considerations will determine the time for which the bonds shall run, the amount, and the rate of interest.

**Maturity,  
and interest  
rate** If intended for popular subscription, the bonds must be in small amounts; otherwise the units may be larger. If the rate of interest offered is too low, the bonds will not sell except below par. Both principal and interest of bonds are payable in gold. During the great World War of 1917, our government wisely decided to sell its bonds directly to the people, through popular subscription; and in order that they might be within reach of all, bonds were offered in denominations as small as fifty dollars. Three great Liberty Loans, aggregating nearly twelve billion dollars, were made during the first year of the war, at interest rates ranging from  $3\frac{1}{2}$  to  $4\frac{1}{4}$  per cent.

**Treasury  
notes** 309. **Short-time Loans.** Bonds are generally issued for loans intended to extend over a considerable number of years; but for short-term loans some variety of treasury notes is generally issued. Thus during the Civil War, the government secured short-term and temporary loans (amounting in all to \$1,098,000,000) through the issue of a variety of interest-bearing notes. In addition to these notes, what was in reality a forced loan was secured through the issue of \$431,000,000 of non-interest-bearing, legal-tender notes, not redeemable in specie.

**War  
Savings  
Certificates** In the year 1917, a new war savings plan was arranged by which even the smallest investors could aid the government with their savings. Thrift stamps costing twenty-five cents each were sold, sixteen of which, with a few cents additional, could be exchanged for a war savings certificate. These certificates



will become due on January 1, 1923, yielding interest at the rate of about four per cent. From this source the government planned to raise two billion dollars during the year 1918.

310. The National Debt. Until the Civil War the national debt remained a comparatively small one, amounting at the outbreak of the war to about \$60,000,000. By 1862 it had increased to over \$500,000,000; and in 1865 it reached a total of \$2,674,815,856.

After the war the country entered upon the tremendous task of paying off the debt, and in twenty-five years, \$1,784,031,486 of the public debt was paid, leaving an indebtedness of \$890,784,370. This amount was somewhat increased by the Spanish-American War; but in the year preceding our entry into the World War, the national debt was \$989,219,621, or less than ten dollars *per capita*. This indebtedness was increased to more than twenty-four billions as a result of our participation in the World War.

### GENERAL REFERENCES

- Adams, H. C., *The Science of Finance* (1905).  
 Beard, C. A., *American Government and Politics* (1910), ch. xviii.  
 ——— *Readings in American Government and Politics* (1910), ch. xviii.  
 Blackmar, F. W., *Economics for High Schools* (1907), ch. xxxii.  
 Bryce, James A., *The American Commonwealth* (1907), i, ch. xvii.  
 Daniels, W. M., *The Elements of Public Finance*, pp. 30–38, 167–170.  
 Dewey, D. R., *Financial History of the United States* (1903), chs. iii, xxi.  
 McClain, E., *Constitutional Law in the United States* (1905), pp. 137–142.  
 Plehn, C. C., *Introduction to Public Finance* (1897).  
 Reinsch, P. S., *Readings on American Federal Government* (1909), ch. viii.  
 Woodburn, J. A., *The American Republic and its Government* (1908), pp. 287–298.

### QUESTIONS AND EXERCISES

1. Report upon the financial difficulties of the government under the Articles of Confederation.
2. Prepare a report upon Hamilton's financial policy.
3. Prepare a report upon the systems of taxation employed during the Civil War. (Consult Dewey, D. R., *Financial History of the United States*, ch. xiii.)
4. Are there any limitations on the purposes for which the federal government may levy taxes?

5. If both the United States and a State government tax the same property, which claim must be first satisfied?
6. Has the federal government any exclusive powers of taxation?
7. May State governments tax corporations created by the United States? May States tax the incomes of federal officials? The income derived from United States bonds?
8. May the United States government tax legacies? May a State tax imported goods?
9. Discuss the arguments in favor of a federal income tax.
10. May Congress provide a lower rate of duties on goods shipped to Boston than on similar goods shipped to New York?
11. What imports are taxed heavily for the sake of revenue only? Does the chief burden fall on articles of luxury or necessity?
12. Describe the collection of the federal revenue. (Dewey, D. R., *Financial History of the United States*, pp. 488-492.)
13. Describe the process of enacting a tariff bill. (Dewey, D. R., *Financial History of the United States*, pp. 478-483.)
14. What were the revenues for the last fiscal year? The expenditures? The chief items under each head?
15. Account for the enormous growth of governmental expenditures. Is this increase justifiable? (Reinsch, P. S., *Readings*, pp. 355-359.)
16. Expenditures for the army, fortifications, navy, and pensions comprise what per cent of the total federal expenditures? Is this excessive?
17. Describe the process of passing appropriation bills. (Dewey, D. R., *Financial History*, pp. 483-488; Reinsch, P. S., *Readings*, pp. 301-355.)
18. Summarize the criticisms upon our system of congressional finance. How can these defects be remedied? (Bryce, James, *The American Commonwealth*, I, pp. 174-182; Reinsch, P. S., *Readings*, pp. 317-320.)
19. Discuss the reasons given by President Cleveland for his veto of the River and Harbor Bill in 1896. (Reinsch, P. S., *Readings*, pp. 359-361.)
20. May Congress distribute surplus revenue among the States? Has this ever been done?
21. Report upon the custody of the public funds. (Kinley, David, *The Independent Treasury of the United States*; Dewey, D. R., *Financial History*, pp. 492-494.)
22. Are there any limitations on the borrowing power of the United States?
23. May Congress lower the rate of interest on government bonds before their maturity?
24. What is meant by the statement that bonds are quoted at 106? At 98? Examine your daily papers for the current price of United States bonds. How do you account for difference in these prices?
25. What is a sinking-fund? What is meant by funding the debt?

## CHAPTER XXIII

### COINAGE AND CURRENCY

**311. Origin and Functions of Money.** Money may be defined as that which serves as a medium of exchange throughout the community, being accepted in final discharge of debts and in full payment for commodities, without reference to the credit of the person who offers it.

The earliest exchanges were effected by barter, but the serious disadvantages of this method led to the adoption of a generally desired commodity as a common medium of exchange. Cattle, furs, tobacco, and other commodities have served in primitive societies as a medium of exchange; but these crude forms of money were gradually supplanted by the precious metals, gold and silver.

Money owes its origin to the action of individuals, but governments gradually asserted their control over money in three ways: (1) by selecting the commodity which had previously served as a medium of exchange between individuals, and making it the means of payment for government fines and taxes; (2) by establishing systems of public coinage and prohibiting coinage by private individuals; (3) by making the government coins a legal tender in discharge of all debts.

Money serves three important functions: (1) as a medium of exchange, obviating the difficulties of barter; (2) as a measure of values, that is, a common denominator in which the exchange values of other commodities are reckoned; (3) as a standard of deferred payments, that is, the measure of debts whose payment is postponed to a future time.

**312. Monetary System of the United States.** Power to



regulate the monetary system of the United States is vested exclusively in Congress, the States being forbidden to create either a metallic or a paper currency. The federal constitution confers upon Congress the power "to coin money and regulate the value thereof and of foreign coin";<sup>1</sup> and by express provision the States are forbidden to coin money, emit bills of credit, or make anything but gold or silver coin a legal tender in payment of debts.<sup>2</sup> Under the interpretation of the Supreme Court, Congress is thus vested expressly with the power to create metal money and regulate its value; vested impliedly with power to create paper money and regulate its value; and vested impliedly with power to make anything it wishes legal tender in payment of any debt.

Currency — a term which includes all money authorized by the government — is of two kinds, metallic and paper.

**Kinds of money** The metallic currency of the United States now consists of gold coins, silver dollars, and subsidiary coins; the paper currency of gold certificates, silver certificates, United States notes, national-bank notes, treasury notes (Act of 1890), and federal reserve notes. Thus, in all, nine kinds of money or currency are authorized, three of which — gold coins, silver dollars, and United States notes — are full legal tender; while the subsidiary coins are legal tender only in limited amounts.<sup>3</sup>

**313. History of Metallic Currency.** The federal constitution gives the national government entire control of the currency, and in 1792 Congress passed the first coinage act. This law provided for the free coinage of gold and silver at the ratio of 15 to 1, a proportion which approximated the bullion values of the metals. The monetary unit was the gold dollar consisting of  $24\frac{3}{4}$  grains of pure gold, and the silver dollar containing fifteen times

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 5.

<sup>2</sup> *Ibid.*, Art. I, Sec. 10, Par. 1.

<sup>3</sup> Subsidiary coins include the half-dollar, quarter, and dime, which are legal tender to the amount of ten dollars: and the so-called minor coins, the nickel and cent, which are legal tender to the amount of twenty-five cents.

that amount, or  $371\frac{1}{4}$  grains of pure silver. Eagles, half and quarter eagles, and silver dollars were to be coined, and were made full legal tender.

In 1873 an act was passed which discontinued the coinage of the silver dollar of  $371\frac{1}{4}$  grains, and established as the sole unit of value the gold dollar containing 23.22 grains of pure gold. Silver was thus demonetized (that is, no longer received by the government to be coined into money); and the country was placed upon a mono-metallic (one-metal) basis, with free coinage of gold only. This action in combination with other causes led to a rapid decline in the value of silver as compared with that of gold.

This demonetization of silver attracted little attention in 1873; but as silver began to decline rapidly in price, those who were interested in its sale as a commodity, together with many who believed the circulating medium unduly restricted if limited to one metal, united in a demand for the renewed free coinage of silver. The more radical friends of silver referred to the demonetization act as "the crime of '73"; and the period from 1873 to 1900 — described by one writer as the "battle of the standards" — was one of constant agitation, discussion, and legislation with reference to the money question.

314. **Currency Act of 1900.** The elections of 1896 and 1900 resulted in the defeat of the party declaring in favor of the free coinage of silver at the ratio of 16 to 1, and the Currency Act of March 14, 1900, formally committed the United States to the policy of gold monometallism which had in fact prevailed since 1873. The important provisions of this act are: —

(1) The gold dollar is declared to be the standard unit of value, and all forms of money issued by the government are to be maintained on a parity with it.

(2) The treasury notes of 1890 are to be retired as rapidly as possible, being replaced by silver coins or silver certificates.



(3) Greenbacks when paid into the treasury are not to be reissued except for gold; and a special gold reserve of \$150,000,000 is to be maintained for their redemption. If necessary to maintain the gold reserve, short-time gold bonds bearing not over three per cent interest may be issued and sold to make up the deficiency in the reserve.

(4) New regulations are introduced with reference to the various forms of paper money, such as that gold certificates shall not be issued in smaller amounts than twenty dollars each, while silver certificates are to be issued only in denominations of ten dollars or less.

**315. Paper Currency.** Paper currency is of two kinds, bank notes and government paper money. The discussion of bank currency involves a brief study of the institutions by which such currency has been issued — the two United States banks, the State banks, and the existing national banks. Government paper money will be discussed under two heads, treasury notes and legal-tender notes.

**316. First United States Bank.** Hamilton's financial measures included the organization of a bank modeled on the Bank of England, in which the federal government should be interested as a partner. The chief advantages claimed for such an institution were that it would afford a market for government bonds, and aid the Treasury by making loans; that it would afford a safe depository for government funds; and that its note issues would furnish the country with a uniform and stable paper currency. The bank project was vigorously opposed on constitutional as well as economic grounds by Jefferson, Madison, and Randolph, but the act granting the charter became law in 1791. The bank was prosperous and successful, paying eight per cent dividends from the start; and the assistance which it rendered to the Treasury was fully as great as had been anticipated. However, when its charter expired in 1811, the bill for renewal was defeated in Congress by a close vote, the partisans of the State banks being

**Advantages  
of a federal  
bank**



aided in their opposition by those who believed a federal bank unconstitutional.

317. **Second United States Bank.** The close of the War of 1812 found the currency in confusion. The State banks outside of Massachusetts had suspended specie payments, and had issued bank notes in excessive amounts. A second United States Bank was proposed as a means of supplying financial resources to an embarrassed Treasury, and restoring the national currency to a specie basis. Accordingly in 1816 Congress chartered a second United States Bank for a period of twenty years, following substantially the plan of the first bank.<sup>1</sup> The central bank was located at Philadelphia, and in time twenty-five branches were established. The institution aroused the hostility of the State banks, and eventually incurred the enmity of President Jackson, whose famous war on the bank (1832–1836) prevented the renewal of its charter.

Reason for  
establish-  
ment

318. **State Banks.** Much of the opposition to the first and second United States Banks came from the banks chartered by the various States. Three such institutions existed when the new government was established; in 1815 there were 208; and during the period from 1829–1837, the number increased from 329 to 788, while the volume of note issues and loans more than trebled. The character of the State banks varied greatly, depending upon the conditions imposed by the State granting the charter, and upon the surplus capital available in the particular community. Some were “mere batches of paper money” without property or resources; others, especially in New York and New England, were carefully regulated and prudently managed.

Character-  
istics

<sup>1</sup> The question of constitutionality was settled by the Supreme Court in the celebrated case of *McCulloch v. Maryland* (1819). The two points decided in this case are: (1) Under the constitution, Congress has the power to charter a United States Bank, this being a necessary and proper instrument for carrying on the fiscal operations of government. (2) A State cannot tax such a bank or its branches, since the bank is an instrument employed by the federal government in the execution of its powers, and such an agency is exempt from State taxation.

In 1865, to strengthen the newly established national banking system, Congress laid a tax of ten per cent on the issue of notes by State banks, thereby taxing these notes out of existence. Many State banks still exist, performing the banking functions of deposit and discount; but they cannot afford to issue notes because of the federal tax.

**319. The National Banks.** During the Civil War, the imperious necessity of finding a market for United States bonds, together with the recognized evils of the State bank currency, led to the establishment of a system of national banks (February, 1863). In 1864 the law was largely recast, and (with later minor changes), the national banking system as it exists to-day was created. Besides the usual banking functions of deposit and discount, national banks perform three important public functions: (1) that of affording a market for United States bonds, (2) providing a paper currency of uniform and stable value, and (3) serving as depositories for public money.

**320. Custody of the Public Funds.** During the existence of the first and second United States Banks, these institutions had served as public depositories; in the interval between the two banks (1811-1816), the government used the State banks as depositories, as it did in 1834 when the Secretary of the Treasury withdrew the government deposits from the United States Bank.

In 1840, an act was passed establishing the independent treasury system. Under this plan, the public funds were kept in the vaults of the treasury at Washington, or in the nine sub-treasuries located in various cities. The drawback of the independent treasury system was that it involved the withdrawal of large sums of money from circulation, thereby causing spasmodic fluctuations in prices and derangement of the money market. With the establishment of our system of national

banks, and later, by creating the federal reserve and farm loan banks, this objectionable feature was done away with. Only a part of the public funds are now kept in the treasury and sub-treasuries; and the Secretary of the Treasury, at his discretion, may deposit the public funds with the national banks, or with the federal reserve or farm loan banks, so that these funds become available in meeting the business needs of the country.

**321. Government Paper Money.** Bank notes constitute one class of paper currency; the other is government paper money. The first issue of this form of money under the constitution was during the War of 1812. The notes were not legal tender, but were receivable for taxes and public dues. These notes remained at par in specie until the banks suspended specie payments (1814). The panic of 1837 led to a second issue of treasury notes, the total issues from 1837 to 1843 amounting to \$47,002,900. A third issue of such notes occurred during the Mexican War (1846-1848).

Issues  
before the  
Civil War

During the Civil War, a large variety of interest-bearing notes was issued, including one- and two-year notes, compound interest notes, and certificates of deposit, amounting in all to \$1,098,000,000. These issues, like the earlier ones, were not legal tender, and were really certificates of indebtedness issued to secure short-time voluntary loans.

Short-time  
loans of  
Civil War

**322. Legal-Tender United States Notes.** On February 25, 1862, an act was passed authorizing the issue of a different sort of currency — namely, \$150,000,000 of legal-tender United States notes, in denominations of not less than five dollars. The notes authorized were to be a legal tender for all public and private debts, except duties on imports and interest on United States bonds and securities. Inasmuch as the notes were not redeemable in specie, they virtually constituted a forced loan to the government. Shortly afterwards, a second act

Three issues  
during Civil  
War



was passed (July 11, 1862), authorizing the issue of another \$150,000,000. By acts of January 17, 1863, and March 3, 1863, a third issue of \$150,000,000 was authorized. Thus the legal-tender acts authorized a total of \$450,000,000 in notes, of which amount \$431,000,000 was actually outstanding on June 30, 1864.

The issue of these non-interest-bearing legal-tender notes constitutes a landmark in our financial history, for it was the first attempt under the constitution to create fiat money — that is, paper currency not based upon coin or bullion, containing no promise to pay coin, and therefore not convertible. The opponents of the measure urged the unconstitutionality of such action,<sup>1</sup> and the economic disasters which would surely follow. On the other hand, the issue of legal tenders was declared necessary and justifiable by reason of public exigency — the necessity of meeting immediate government obligations, and of providing money for the purchase of bonds.

The greenbacks fluctuated greatly in value, falling to thirty-nine cents on the dollar in July, 1864. The chief results of the depreciation were the rise of prices of commodities, and the fluctuating premiums on gold. Prices more than doubled from 1860 to 1865, while money wages only increased about forty-three per cent. Hence the heavy burden of inflation rested upon the laborers of the country, since wages and salaries did not rise in proportion to prices.

After the war the volume of greenbacks was gradually decreased, but yielding to popular opposition, Congress in 1878 ordered that there should be no further contraction of the greenbacks, and that when paid into the treasury these notes should be reissued. Since this legislation has not been repealed, the amount of legal-tender notes then outstanding, \$346,681,016, is still current.

<sup>1</sup> The Supreme Court of the United States at first decided that the legal-tender acts were unconstitutional. Soon afterwards, this decision was overruled, the court holding that Congress has full power to issue legal-tender paper money.

**323. Resumption of Specie Payments.** Not until January 14, 1875, did Congress enact legislation looking toward a resumption of specie payments. On that date an act was passed, providing for resumption on **Resumption** January 1, 1879. The Secretary of the Treasury was authorized to use the surplus specie in the treasury for this purpose, and if necessary to obtain additional gold through the sale of bonds. On becoming Secretary of the Treasury in 1877, Sherman commenced the accumulation of a gold reserve; and on January 1, 1879, he had accumulated \$133,000,000 in coin (\$95,500,000 through the sale of bonds). Slowly but gradually the value of the greenbacks rose toward parity with gold; and on December 17, 1878, they were quoted at par.

**324. Recent Currency Legislation.** In 1913, Congress passed the important currency measure known as the "Federal Reserve Act." The purpose of this act is to make our currency system more elastic, and our **Purpose** banking system more responsive to the needs of trade. For example, if more money is needed to meet business conditions, the new law permits the issue of currency in the form of federal reserve notes. These are secured by short-time commercial paper, and are withdrawn from circulation when no longer needed.

The act creates a central managing board at Washington, known as the "Federal Reserve Board." This consists of seven members, including the Secretary of the Treasury, the Comptroller of the Currency, and **Federal Reserve Board** five members appointed by the President. This board has general supervision over our national banking system. The entire United States is divided into twelve federal reserve districts. In each of these a chief city is selected as a banking center; for example, New York, Chicago, St. Louis, San Francisco, and Cleveland are the centers for their respective districts.

To understand the working of the measure, let us take



the federal reserve bank located at Cleveland as an example.

**Federal Reserve Banks**

This is the reserve bank for District No. 4, comprising the State of Ohio, western Pennsylvania, eastern Kentucky, and the panhandle of West Virginia. All national banks in this district are members of the system, each membership bank having subscribed to the stock of the federal reserve bank. The Cleveland Reserve Bank is managed by a board of nine directors, three of whom are chosen by the Federal Reserve Board at Washington, and six by the membership banks of the district. The Cleveland Reserve Bank holds a part of the reserves of its membership banks, and exercises other important banking functions.

**325. Advantages of the Federal Reserve System.** Let us suppose that for some reason, such as the moving of crops, a large amount of money is needed temporarily in the Cleveland district. This can be supplied in several ways. The Secretary of the Treasury, acting with the Federal Reserve Board at Washington, may transfer additional deposits from unused money in the Treasury. Or the Federal Reserve Board may make temporary transfer to Cleveland of surplus reserve funds in the federal reserve bank at Chicago, or the one at New York.

**How the system aids business**

Most important of all, the reserve bank at Cleveland is authorized to rediscount commercial paper, and to supply its membership banks with currency to be loaned to their customers upon such paper. In other words, the reserve bank accepts from its membership banks the collateral on which they have made loans, and issues to them notes or currency in exchange for this collateral. Provision is made for the withdrawal of this extra currency when the need for it has been met, so that there may not be a permanent inflation of the outstanding volume of circulating notes. In this way, a discount market is created which makes the bills and notes that are given and taken in ordinary business readily translatable into cash.

**Provision for an elastic currency**



The new system enables the banking power of the United States to be used as a whole in times of emergency, very much as if there were one central bank with branches throughout the country. The scattered reserves of thousands of heretofore independent banks are mobilized, and made mutually available for one another. Moreover, the government no longer deposits its surplus funds in ordinary banks, or lets them lie unused in the vaults of sub-treasuries; but rather, places them in the federal reserve banks, subject to the supervision of the Federal Reserve Board at Washington.

Unifies  
our banking  
system

Besides reforming our national banking system, the new currency law extends the aid of that system to fields hitherto untouched. We have seen that the act provides credit facilities for agriculture, recognizing the peculiar needs of that industry, and making special provision for them. It also lends its aid to our rapidly growing foreign commerce. With the approval of the Federal Reserve Board, any national bank with a capital and surplus of \$1,000,000 may establish foreign branches "for the furtherance of the commerce of the United States."

Aid to  
agriculture  
and foreign  
commerce

### GENERAL REFERENCES

- Blackmar, F. W., *Economics for High Schools* (1907), chs. xxviii-xxix.  
 Bullock, C. J., *The Monetary History of the United States* (1900), pp. 79-121.  
 Dewey, D. R., *Financial History of the United States* (1903).  
 Dunbar, C. F., *Theory and History of Banking* (1893), ch. ix.  
 Hart, A. B., *Actual Government* (1903), pp. 496-499.  
 Jevons, W. Stanley, *Money and the Mechanism of Exchange*.  
 McClain, E., *Constitutional Law in the United States* (1905), ch. xiii.  
 Walker, F. A., *Money in its Relations to Trade and Industry* (1899).  
 Watson, D. K., *History of American Coinage* (1899).  
 White, H., *Money and Banking* (1896).

### QUESTIONS AND EXERCISES

1. What were Hamilton's arguments in favor of the establishment of the first United States Bank?
2. Prepare a report on Jackson's war on the second United States Bank.
3. What is the value of the silver in a silver dollar? What makes this coin worth one dollar in gold? What is the value of the gold in a five-dollar gold-piece?

4. Examine the last Statistical Abstract, and prepare a table showing the amount of money in the United States.
5. From this table calculate the per capita circulation of money in the United States.
6. In what denominations are the different coins and paper money issued by the government?
7. Bring to class each of the various forms of currency for examination.
8. What relation exists between prices and the amount of money in circulation? How is the amount of currency increased as needed?
9. Where is gold produced in large quantities? Where are the largest silver-mines? What was the total production of each metal last year?
10. What sections of the country and what classes of the population have generally favored cheap money? Why is this?
11. Prepare a report upon the free-silver issue in the campaign of 1896.
12. Prepare a report upon the three issues of United States notes during the Civil War.
13. What is the essential difference between United States notes or "green-backs," and other forms of paper money?
14. Explain the causes of the fluctuations in value of United States notes during the period 1862-1879.
15. Prepare a brief report upon the Legal-Tender decisions.
16. From your examination of a United States note, answer the following:  
(a) In what year did Congress authorize its issue? (b) Is it a legal tender? (c) What did the words "will pay the bearer five dollars" mean when the note was issued? (d) What do these words mean now?
17. Would it have been better if the framers of the constitution had inserted a prohibition of the issue of legal-tender paper money? What danger is there in permitting Congress to exercise this power?
18. Name the national banks in your city. What is the capital of each? Why does the public ordinarily have confidence in their management?
19. Name several State banks in your city. What functions do these banks exercise? What function possessed by the national banks do they lack?
20. Prepare a report upon the State banks prior to the Civil War.
21. What forms of credit are largely employed as a substitute for money?

## CHAPTER XXIV

### COMMERCIAL FUNCTIONS

**326. Commerce under the Constitution.** The constitution vests in Congress the power “to regulate commerce with foreign nations and among the several States, and with the Indian tribes.”<sup>1</sup> Under this provision, each State retains control of the commerce wholly within its boundaries; and only when commerce passes beyond State boundaries to another State or foreign country does it become subject to federal control.<sup>2</sup>

Constitutional provisions

The term “commerce” as used in the constitution has been broadly construed by the Supreme Court. It includes traffic, or the purchase and sale of goods, and also navigation and intercourse whether by land or water, together with all the means or agencies by which such intercourse is carried on. Transportation of persons, as well as freight, is included within the term. The control of foreign commerce by Congress has been exercised chiefly with reference to three subjects — navigation, the tariff, and immigration.

Definition of commerce

**327. Navigation.** Congress regulates navigation between this country and foreign nations, and between the States of the Union. Even navigation upon a stream wholly within the boundaries of a single State is subject to federal regulation, provided the stream by uniting with other waters forms part of “a continued highway over which commerce is or may be carried on with other States or foreign countries.”

Federal control

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 3.

<sup>2</sup> The authority of Congress over foreign and interstate commerce is subject to two constitutional limitations: (1) no tax or duty may be levied on articles exported from any State; and (2) no preference may be given, by commercial or revenue regulations, to the ports of one State over those of another.



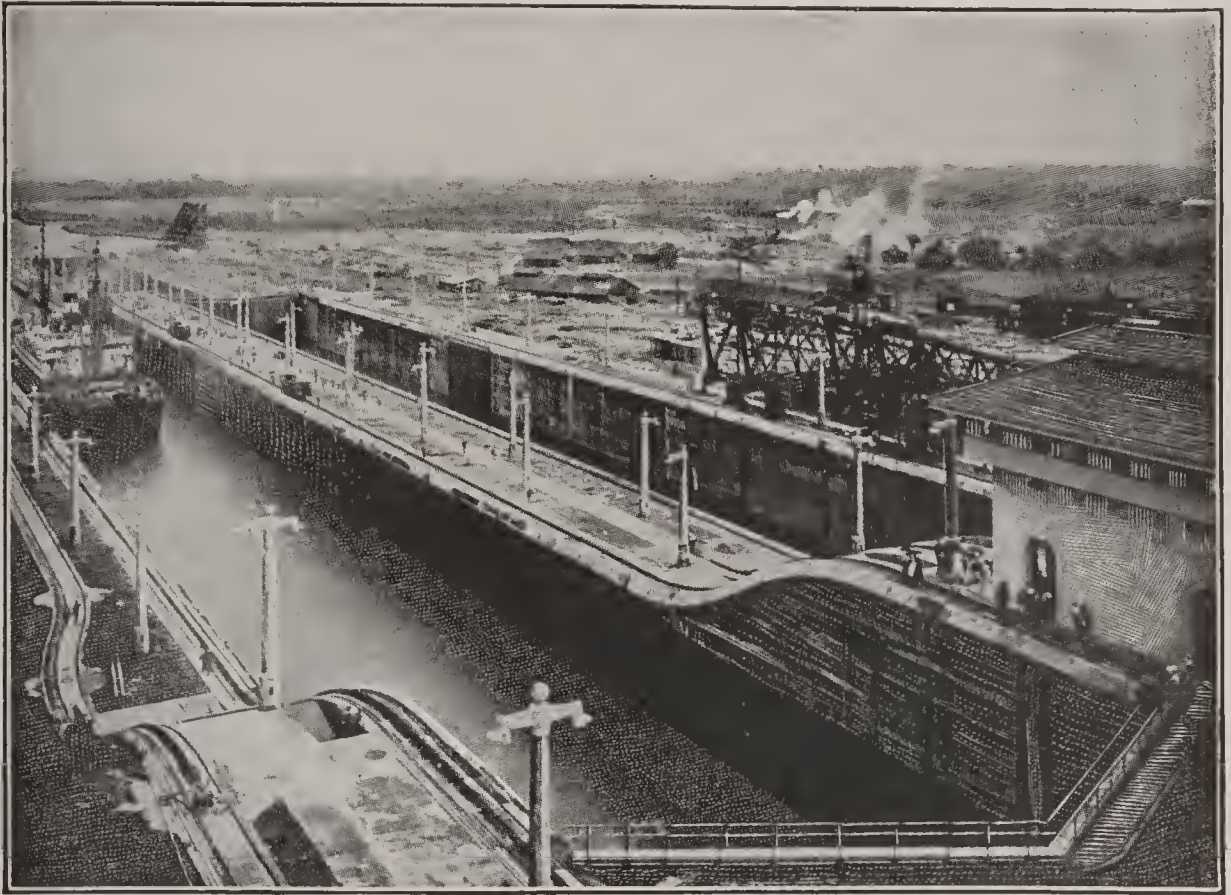
In this connection, Congress has established rules of navigation; laws relating to the government of seamen on American ships; establishing port and quarantine regulations; providing for coast surveys, lighthouses, buoys, life-saving stations, and for the improvement of rivers and harbors.

At the beginning of our war with Germany, less than one tenth of our foreign commerce was carried in American ships. Although our merchant marine totaled 8,600,000 tons, four millions of this tonnage consisted of coastwise vessels, and three millions of vessels that plied the Great Lakes. We had, therefore, less than two million tons of shipping of size and strength practicable for transatlantic sailing.

To meet the situation created by the war, Congress authorized the expenditure of \$3,671,000,000 for the construction of a great merchant fleet, and the Shipping Board was organized to take charge of the work of construction. The result has been the creation of a commercial armada second only to that of Great Britain, and greater than the combined merchant fleets of any other ten nations. On January 1, 1920, the American flag flew over 2584 sea-going ships, with a total measurement of nearly 10,000,000 tons; while some 500 more ships of 2,500,000 tons were under construction or contract. Fifty per cent of our immense foreign trade is now moving under the American flag.

328. **River and Harbor Improvements.** The improvement of waterways is one of the most important means of aiding navigation, and for this purpose the federal government spends annually many millions. The great defect of river and harbor legislation is that many unimportant improvements are undertaken in order to appease local interests and thus gain the necessary support of members — an evil so great that the river and harbor bill has been facetiously dubbed the “pork barrel.”

Extensive harbor improvements have been carried out, such as the construction of breakwaters and piers at Chi-



*(By courtesy of the Isthmian Canal Commission)*

### OPENING OF THE PANAMA CANAL

S.S. Ancon in the West Chamber, Gatun middle locks, August 15, 1914.

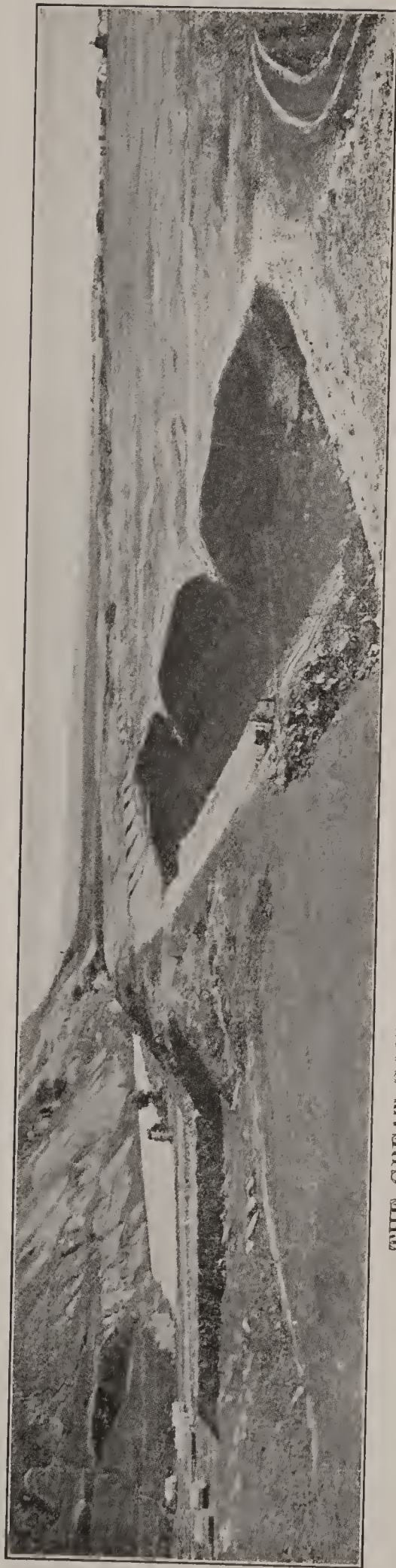


*(By courtesy of the Isthmian Canal Commission)*

### OPENING OF THE PANAMA CANAL

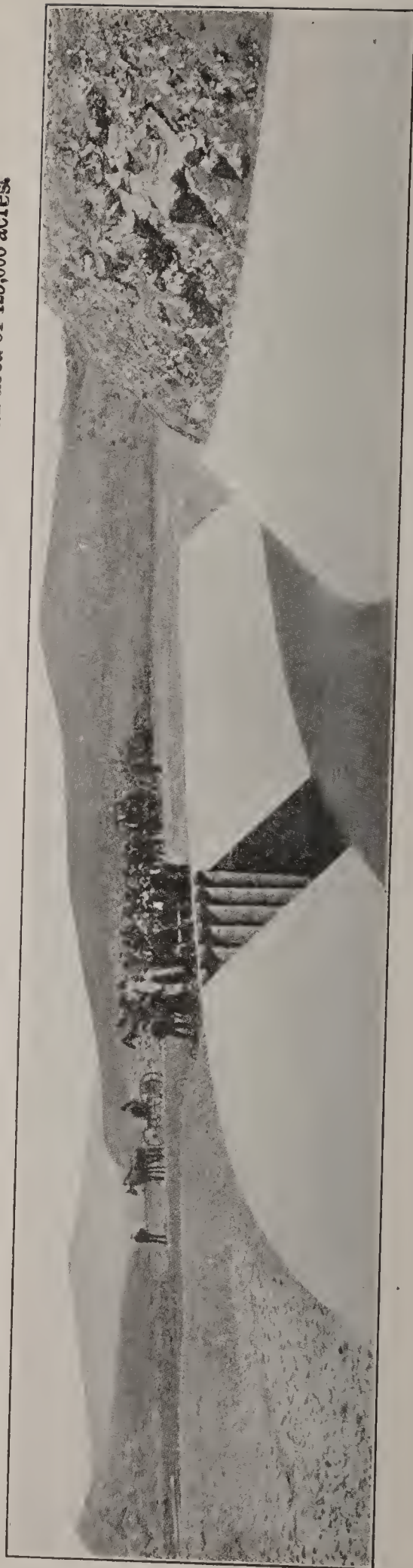
S.S. Ancon on Gatun Lake, August 15, 1914.





THE GREAT GARLAND CANAL ON THE SHOSHONE PROJECT, WYOMING

This is sixty miles long and distributes the water stored by the Shoshone Dam over an area of 125,000 acres.



THE TRUCKEE RIVER IRRIGATING CANAL, NEVADA

This shows the concrete construction and one of the flood-gates through which the river water enters the canal.



cago, Cleveland, Buffalo, and Milwaukee; and vast sums are expended annually for the deepening of harbors, principally by dredging. Levees or artificial dikes have been constructed on a large scale, especially along the Mississippi. All river and harbor improvements undertaken by the federal government are carried on under the direction of the Secretary of War, aided by engineers of the United States Army.

The Panama Canal at the southern extremity of North America is the greatest project yet undertaken by the United States for the promotion of commerce. The canal is fifty miles in length, from deep water in the Caribbean Sea to deep water in the Pacific Ocean. Constructed under the direction of the Department of War, it was opened to commerce in August, 1914.

**329. Tariff Duties.** A system of tariff duties constitutes one of the principal means by which the United States, in common with many other countries, seeks to regulate commerce. Tariff duties include both import and export duties, but the latter are forbidden under our constitution, and are no longer levied by any important country. Import duties are sometimes levied solely to secure revenue for the government, in which case only commodities that do not compete with domestic products are taxed. This system of duties is called a revenue tariff, and prevails in Great Britain, Holland, Belgium, and a few other countries.

More often import duties are levied so as to restrict foreign competition in the interest of home producers, being laid upon commodities which compete with domestic products. This system of duties is called protective, and prevails in the United States and in many other countries. In the United States the tariff question has frequently been an issue in political campaigns, and has been widely discussed by writers upon economics.

The Underwood Tariff Act passed in 1913 by a Demo-

cratic Congress made material reductions in the tariff rates.

**Recent  
Legislation**

This measure was superseded in 1922 by a Republican tariff law which raised the average rate of duties to 45 per cent, and transferred many commodities from the free to the dutiable list.

**330. Immigration.** As part of its commercial power, Congress may regulate immigration or the coming of foreigners to this country for the purpose of residence. Until 1882 immigration to the United States was free from any restriction by federal law. In 1882 Congress passed acts designed to exclude the pauper, criminal, and insane classes of aliens, as well as Chinese laborers; and a few years later (1885), the Alien Contract Labor Law was passed.

Under these and later acts, the classes of aliens debarred include idiots, insane persons, paupers or persons likely to become public charges, epileptics and persons suffering from contagious disease, criminals, polygamists, anarchists, persons whose passage is paid by another (with certain exceptions), laborers under contract made previous to emigration to perform labor or service in the United States, and Chinese and Japanese laborers.

The situation arising as a result of the World War clearly revealed the need of additional restrictions until the millions of foreign born persons already here should become thoroughly Americanized. The law passed by Congress in 1921 limited the number of immigrants during the following year to three per cent of the foreign born persons of each nationality already in the United States.

**Act of  
1921**

Immigrants not qualified to enter are returned at the expense of the steamship company bringing them, this liability continuing for a period of one year after landing. Less than two per cent of the immigrants who reach this country are excluded. The administration of immigration laws is entrusted to the commissioner-general of immigration of the Department of Labor.


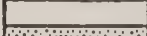
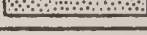
**Adminis-  
tration of  
immigration  
laws**

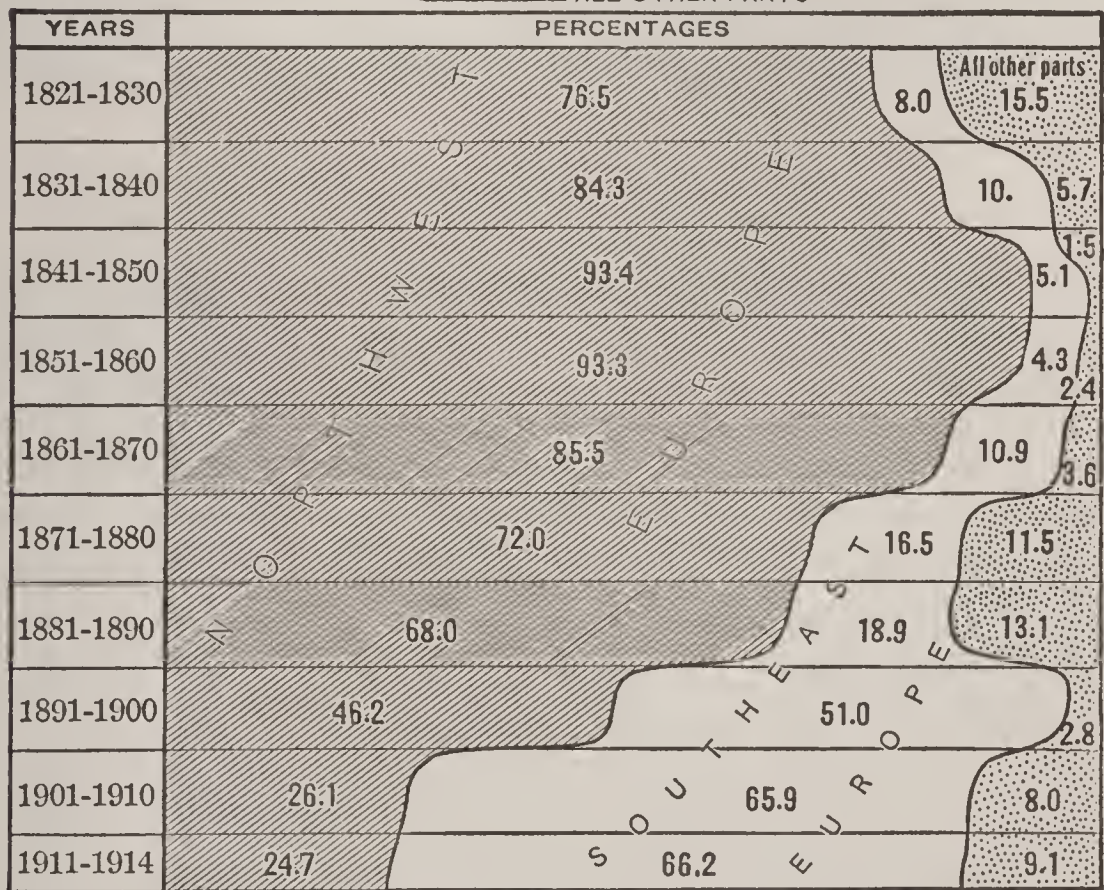


Inspection by United States officials is provided for both at the point of departure and at the port of entry in this country.

331. General Characteristics of Immigration. Certain general characteristics of our immigration are so important as to deserve particular notice. Foremost among these is the great increase in the number of immigrants. Except during two decades, immigration has steadily increased since 1820, until the number of annual arrivals now approximates one million.

### TWO MAIN SOURCES OF IMMIGRATION FROM EUROPE

KEY  NORTHWEST EUROPE  
 SOUTHEAST EUROPE  
 ALL OTHER PARTS



Based on Annual Reports  
Commissioner General of Immigration

Even more important than this great increase in numbers is the marked change in the character of immigration. Formerly the great majority of immigrants came from



countries allied to us in race or language — from Great Britain, Germany, and the Scandinavian countries; while a very small proportion came from the peoples of southern and eastern Europe allied to us by neither language nor race, and hence vastly more difficult of assimilation. Thus in the decade from 1871 to 1880, about seventy per cent of our immigrants came from the United Kingdom, Germany, and the Scandinavian countries; and only about sixteen per cent from the countries of southern and eastern Europe, chiefly Italy, Russia, and Austria-Hungary. In the years since 1880, the immigration from southern Europe has rapidly increased, while that from northern Europe has relatively declined. From 1880 until 1921, northwestern Europe sent only about twenty-five per cent of the total immigration, while southeastern Europe supplied sixty-six per cent, most of which came from Austria-Hungary, Italy, and Russia.

332. Social Effects of Immigration. With this change in the sources of our immigration, the percentage of illiterate immigrants has greatly increased. Another serious difficulty arises from the tendency of immigrants to concentrate in large cities. About 13 per cent of the total population of the United States is foreign-born; but in the urban communities (cities, towns, villages, and boroughs), 22.6 per cent of the population is foreign-born, while in the rest of the country only 7.5 per cent is foreign-born. This concentration of immigrants has not only greatly increased the work of assimilation and education, but it has rendered vastly more difficult the many other problems which municipal governments must solve. Other important social effects of immigration relate to crime, pauperism, and insanity. Statistics show that of the criminal, pauper, and insane classes, the foreign-born furnish a much larger relative percentage than is the case with our native-born population.

333. Control of Interstate Commerce. As already pointed

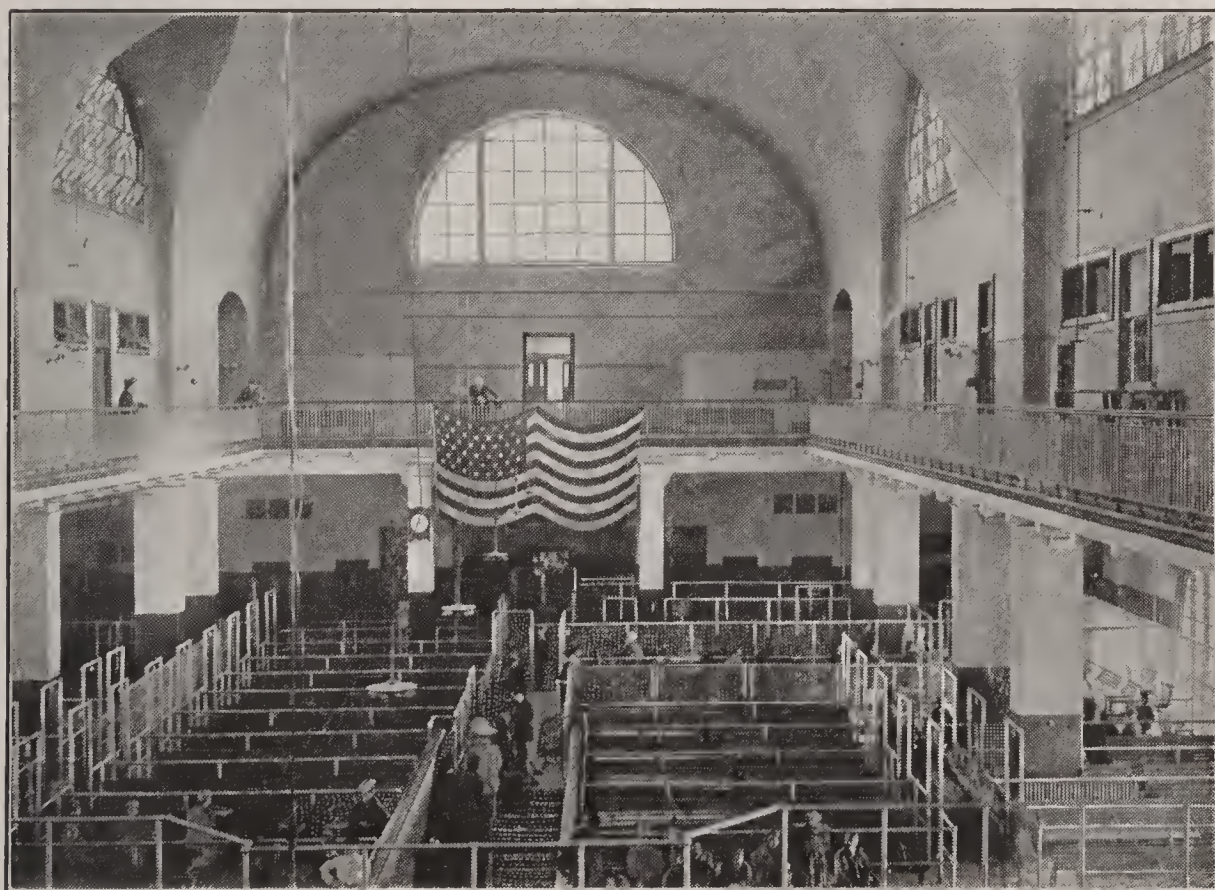




*(By courtesy of the Commissioner of Immigration)*

## UNITED STATES IMMIGRANT STATION

Ellis Island, New York Harbor.



## REGISTRY FLOOR, ELLIS ISLAND IMMIGRANT STATION

Showing the spaces in which the immigrants await examination before admission.





THE CUSTOM HOUSE AT NEW YORK CITY  
One of the newest custom house buildings.



*(Photograph by William L. Beecher)*

THE CUSTOM HOUSE AT PHILADELPHIA  
An example of the architecture of the older buildings of this sort.



out, interstate as well as foreign commerce is subject to the control of Congress. By interstate commerce is meant the commerce which passes beyond the boundary of one State and enters another. Thus the term includes the transportation of goods, persons, or intelligence across State lines. While the power of Congress over interstate commerce is complete, it is not exclusive as in the case of foreign commerce. Interstate commerce may be affected by police regulations adopted by the States, such as quarantine and inspection laws, designed to prevent the introduction of persons or animals suffering from contagious or infectious disease.<sup>1</sup>

**334. Instruments of Interstate Commerce.** One of the most important means of promoting interstate commerce is the postal system, an exclusive monopoly of the federal government. The control of Congress over the postal service is based, not upon its power to regulate commerce, but upon its constitutional authority "to establish post offices and post roads." Whether Congress has constitutional authority to make a government monopoly of other means of transmitting intelligence, such as the telegraph and telephone systems, is an open question. Up to the present time these natural monopolies have been left in the hands of private companies, subject to congressional regulation of all interstate business transacted.

Money has been called the mechanism of exchange, and it is unquestionably one of the most important instruments of commerce. As we have seen, the federal government has entire control of the circulating medium, including the right to coin money, to establish a standard of value, and to declare what money shall be legal tender. Furthermore, the power of Congress to provide a currency

<sup>1</sup> In order that State regulations affecting interstate commerce may be valid, two conditions are essential. First, the subject must be local in its nature, and one which can be best regulated by special provisions adapted to localities. Second, State regulations even upon local subjects are invalid if the subject-matter has been covered by federal legislation — since in matters of interstate commerce, the police regulations of Congress are of paramount authority.

and to borrow money has been held to warrant the establishment of our system of national banks.

The constitution vests in Congress power to fix the standard of weights and measures,<sup>1</sup> recognizing the importance to commerce of a uniform system. The adoption by all the States of the old English standards of weights and measures has partly obviated the need of congressional legislation. Up to the present time Congress has done little in the execution of this power, except to make permissive but not obligatory the use of the metric system.<sup>2</sup>

The power of Congress "to establish uniform rules on the subject of bankruptcies throughout the United States,"<sup>3</sup> affects commerce to an important extent. The object of a bankruptcy law is to provide a judicial process whereby a person who cannot pay all his debts may divide his property proportionately among his creditors, and be discharged from further legal obligation.

**335. Railway Transportation.** The period following the Civil War was marked by a rapid development of the railway industry. Many new lines were built, and an era of excessive competition followed, which proved injurious both to the roads and to the communities which they served. Between two points with a single line of railroad, rates were often exorbitant; whereas if competing lines connected two cities, the rates were sometimes below cost — the railways compensating themselves by heavy charges between points where there was no competition. Not only were there discriminations as between localities, but lower rates were often granted to favored shippers, thus making possible the creation of monopolies in certain industries. The railroads themselves endeavored to correct some of the evils resulting from excessive competition by forming combinations or "pools," — arrange-

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 5.

<sup>2</sup> The metric system is in use throughout most of the western world except in the United States, and in Great Britain and her possessions.

<sup>3</sup> *Constitution*, Art. I, Sec. 8, Par. 4.



ments under which all freight between certain points was to be carried at a specific rate, and the proceeds pooled or divided among the competing lines in a certain fixed ratio.

As a result of these conditions, the shippers and the public generally demanded that the government take steps to regulate the railway traffic. Since the roads were ordinarily chartered by the States, relief was first sought from the State governments; and many commonwealths established railway commissions, some of which were authorized to fix maximum rates and to prevent pooling. State control proved ineffective because of its geographical limitations, since State regulations did not apply to the transportation which passed beyond State lines. By 1885, the railroads were deriving more than two thirds of their revenue from the interstate traffic which individual commonwealths were powerless to control, and widespread public sentiment demanded federal regulation of interstate transportation.

**336. Federal Railway Legislation.** Accordingly, in 1887, Congress passed the Interstate Commerce Act. As amended by subsequent legislation, its chief provisions are as follows: (1) Discriminating rates in favor of individuals or localities are prohibited. (2) Pooling or combination for the purpose of dividing traffic is declared illegal. (3) Publicity of railroad rates is made compulsory by providing that all rates must be published and can only be changed after due notice. (4) In order to carry out its provisions, the act creates an Interstate Commerce Commission of eleven members, with power to require reports as to the operation of railroads, to hear complaints, summon witnesses, make investigations, and, under the Hepburn Act of 1906, to fix maximum rates.

In 1917 the federal government took entire charge of the railroads for the period of the war. Although government control was perhaps necessary as a war measure, it proved neither economical nor efficient; and the physical equipment



of the railroads depreciated greatly during this period.

**Transporta-  
tion Act  
of 1920** Congress restored the roads to their owners by the Transportation Act of 1920, which established new and important principles for the control of railway traffic.

(1) Consolidation is approved under certain conditions. The Interstate Commerce Commission is instructed to prepare and adopt plans looking toward the consolidation of the railroads of the country into a limited number of systems. Consolidation may also be undertaken on the initiative of the carriers, with the approval of the Interstate Commerce Commission.

**Consolida-  
tion** (2) The act establishes a definite rule for determining rates that will yield a fair return on railroad values. The Interstate Commerce Commission is to divide the railroads of the country into several groups, and then fix such rates within these groups as will yield a return of  $5\frac{1}{2}$  per cent on the value of railway properties within each group.

**Rate-  
making** (3) The principle of profit-sharing is introduced. If the earnings of the railroads exceed 6 per cent, the excess earnings are to be divided equally between the government and the companies making the earnings. The government's share is to be used in furthering the public service rendered by the carriers either through the purchase of additional equipment or facilities, or through loans to the railroads.

**Profit-  
sharing** (4) A revolving fund of \$300,000,000 is created to provide loans to the railroads for extensions, betterments, and improvements.

**Revolving  
fund** (5) A complete system for the conciliation of labor disputes is established, embracing local adjustment boards and a central Railroad Labor Board to which questions relating to wages and working conditions may be referred when the carriers and their employees cannot come to an agreement.

**Railroad La-  
bor Board** Thus while the railroads of the United States are to be owned by private capital and operated under private man-

agement, they are henceforth to be considered as a unified system managed by the public through its agent, the Interstate Commerce Commission. It is for the Commission to say what returns the railroads shall receive, what rates they shall charge, what service they shall give, what new lines and terminals they shall build. By this latest act regulating railway transportation, the Interstate Commerce Commission is entrusted with vast powers and responsibilities; and the future of our railroads will depend largely upon the way in which that body discharges its trust.

337. **Sherman Anti-Trust Act of 1890.** One of the most important regulations of interstate commerce is the Sherman Anti-Trust Law of 1890. This act declares illegal every contract, combination in the form of trust or otherwise, or conspiracy in restraint of interstate or foreign trade. For example, the consolidation of competing railway lines through the organization of a corporation to hold and control their stock is an arrangement in restraint of interstate trade, and an illegal attempt to form a monopoly. Persons found guilty of violating the law are liable to fine or imprisonment, at the discretion of the court. From 1890 to 1914, the enforcement of this law was entrusted to the Attorney-General's office. There was no Commission, as in the case of the railroads, charged with the duty of its enforcement. Suit after suit was brought by different Attorneys-General to break up illegal combinations. The result often was, that the combinations were dissolved only to reappear in different form, pursuing about the same methods. By reason of the uncertain and changing policy of government in enforcing this law, it proved impossible to secure effective regulation of large corporations.

338. **Recent Laws regulating Corporations.** Accordingly, in 1914, Congress supplemented the Sherman Anti-Trust Act by two measures: (1) an act creating the Federal Trade Commission; (2) the Clayton Anti-Trust Law. The Federal Trade Commission

Private  
ownership  
and public  
control

Provisions  
of act

Federal  
Trade  
Commission

consists of five members, appointed by the President. This commission receives reports from all corporations capitalized at \$5,000,000 or more, except common carriers. In general, its aim is to supervise the activities of large corporations so closely as to prevent unfair competition. Whenever there is reason to believe that any business is using unfair methods of competition, the commission can issue a complaint. The offending corporation will then have to show that the complaint is unfounded, or the commission will issue an order to stop the methods complained of. An appeal from this order may be taken to the Circuit Court of Appeals. The advantage to business of this method is, that the commission may promptly order men to desist from unfair practices. The courts, on the other hand, ordinarily must wait until the unfair acts are committed, and then punish the perpetrators, even though their unfair practices may have been committed in innocence of wrong-doing. Thus the Federal Trade Commission is a kind of common sense business court, with power to regulate interstate corporations without too much red tape and delay. Besides its power to restrain unfair competition, the commission has charge of the work formerly carried on by the Bureau of Corporations.

The purpose of the Clayton Anti-Trust Law is to check monopoly, and tendencies toward monopoly, by specifying the particular acts which are in restraint of trade.

**Clayton  
Anti-Trust  
Act**      This law forbids the existence of holding companies where they restrain commerce or tend to create monopoly. "Interlocking" directorates<sup>1</sup> among banks with resources of more than \$5,000,000 are forbidden. The Clayton Law and the Federal Trade Commission, President Wilson declared, would give a new liberty of action to business men in the United States, and would effectually kill monopoly "in the seed."

<sup>1</sup> "Interlocking" directorates are those in which the same men are placed on the boards of directors of different companies for the purpose of securing coöperative action — a practice which tends to create monopoly.



## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. XIX.  
——— *Readings in American Government and Politics* (1910), ch. XIX.  
Blackmar, F. W., *Economics* (1907), ch. XXXI.  
Bryce, James, *The American Commonwealth* (1907), II, ch. CIII.  
Hart, A. B., *Actual Government* (1913), ch. XXIV.  
Jenks, J. W., *The Trust Problem* (1901), ch. XI.  
Johnson, E. R., *Elements of Transportation* (1909), chs. XVI-XVIII, XXVII.  
McClain, E., *Constitutional Law* (1905), chs. XIV, XV, XVI.  
Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. X.  
Smith, R. Mayo, *Emigration and Immigration* (1890).  
Taussig, F. W., *The Tariff History of the United States* (1905).

## QUESTIONS AND EXERCISES

1. What was the amount of our foreign commerce last year? Did the exports exceed the imports?
2. From which five countries do we buy the most goods? Which five are our best customers?
3. State the principal arguments for and against a ship subsidy.
4. Prepare a report upon the Panama Canal. Give an account of the acquisition of the canal zone and of the benefits of the canal.
5. What amount did the federal government appropriate last year for river and harbor improvements? What part of this was for your State? Do inland cities receive any benefit from these improvements?
6. Name the chief inland centers of commerce in the United States. Explain how the commerce and industry of each has been aided: (a) by canals; (b) by rivers; (c) by railroads.
7. Name the articles of commerce which can be readily produced in the United States. Those which cannot be easily produced here. Of the latter, which ones are on the free list?
8. Why do business men object to frequent changes in tariff rates?
9. What is meant by reciprocity treaties? What are the advantages of such treaties? What are subsidies? Bounties?
10. How many immigrants came to the United States last year? How many were excluded?
11. Give arguments for and against an educational test for immigrants, such as the ability to read and write their own language.
12. Name five great railway systems engaged in interstate commerce. How are they controlled by the federal government?
13. May Congress forbid the transportation across State lines of goods manufactured by child labor?
14. In what ways has the federal government aided the construction of railroads?
15. Name five great industrial corporations engaged in interstate commerce. Has the federal government any means of controlling them?
16. Discuss the economic aspects of trusts, and the best methods of regulating them. (Jenks, J. W., *The Trust Problem*; Kaye, P. L., *Readings*, pp. 492-497; Reinsch, P. S., *Readings*, pp. 485-507.)

## CHAPTER XXV

### INTERNATIONAL RELATIONS

**339. International Law.** International law is the body of rules concerning mutual rights and duties which civilized nations accept as binding in their dealings with one another. These rules are sometimes formally adopted in treaties or conventions, but more often are usages which by general acceptance have become obligations. For this reason international law is lacking in precision and certainty. It depends for its enforcement chiefly upon the spirit of justice and fair dealing among nations, and upon the fact that violation of its rules may lead to war. But in the United States, as in Great Britain, international law is considered a part of the law of the land, Congress being expressly empowered to define and punish offenses against it.

**Definition and enforcement**      nations accept as binding in their dealings with one another. These rules are sometimes formally adopted in treaties or conventions, but more often are usages which by general acceptance have become obligations. For this reason international law is lacking in precision and certainty. It depends for its enforcement chiefly upon the spirit of justice and fair dealing among nations, and upon the fact that violation of its rules may lead to war. But in the United States, as in Great Britain, international law is considered a part of the law of the land, Congress being expressly empowered to define and punish offenses against it.

**Scope**      such important subjects as emigration, naturalization, extradition, representation through diplomatic and consular agents, maritime jurisdiction, protection of citizens and aliens, treaties and conventions of all kinds, and arbitration. Within its scope are also included such questions as the rights and duties of neutrals in time of war, for example, the recognition of belligerent rights, rules governing blockades and sieges, privateering, maritime captures, mediation and intervention.

**340. Federal Control of International Affairs.** Under our constitution, control of international affairs is vested exclusively in the federal government, the States being



expressly prohibited from participating in this function.<sup>1</sup> Thus the constitution gives the President and Senate sole power to make treaties; grants Congress authority to regulate commerce with foreign nations, to punish offenses against international law, to declare war, to raise and support armies, and maintain navies; and finally, it vests in the federal courts jurisdiction over all cases involving foreign affairs.

**341. Foreign Intercourse.** Intercourse with foreign nations is carried on through two classes of agents belonging either to the diplomatic or the consular service.

Broadly speaking, diplomatic agents have charge of international affairs of a political nature, while consular agents are chiefly concerned with those of a business or commercial character.<sup>2</sup> The official head of both diplomatic and consular services is the President; but in matters of foreign affairs he ordinarily acts through the Secretary of State, who personally directs our foreign policy.

Diplomatic  
and consular  
service

**342. Diplomatic Representatives.** The diplomatic representatives of the United States are generally of two grades or classes: either ambassadors, or envoys extraordinary and ministers plenipotentiary. In all, the United States has diplomatic representatives in forty-seven foreign countries. Representatives of highest rank, or ambassadors, are sent to fourteen countries;<sup>3</sup> while ministers plenipotentiary represent the United States at thirty-three other countries.

Classes

The President appoints diplomatic representatives (subject to confirmation by the Senate); and he may remove them at his discretion. The term of foreign representatives

<sup>1</sup> By express constitutional provision, no State may enter into any treaty, alliance or confederation; grant letters of marque or reprisal; or, without the consent of Congress, levy any import, export, or tonnage duties; keep troops or ships of war in time of peace; enter into any agreement or compact with another State or foreign power; or engage in war unless actually invaded or in imminent danger.

<sup>2</sup> But the diplomacy of the present century is largely occupied with the extension of trade, so that the work of the diplomatic service, as well as that of the consular service, is intimately connected with the advancement of commercial and trade interests.

<sup>3</sup> Argentina, Austria, Brazil, Chile, France, Germany, Great Britain, Italy, Japan, Mexico, Peru, Russia, Spain, Turkey.

is not fixed by law, and many changes occur when a new President assumes office. No constitutional or statutory qualifications are prescribed for those who serve in this capacity; but appointees are generally men of considerable training in public service.

**Appoint-  
ment and  
qualifica-  
tions**

The salary of ambassadors is \$17,500; ministers plenipotentiary receive from \$10,000 to \$12,000; secretaries of legations from \$1200 to \$3000. These salaries are small in comparison with those paid by other countries for similar service; and the cost of heading a legation at the more important capitals is so great that only men of independent means can afford to accept the appointment.

**Salary**

**343. Duties and Privileges of Diplomatic Representatives.** The duties of our representatives in foreign countries are in general to safeguard and advance American interests in every possible way. They are to cultivate friendly relations with the power to which they are accredited; in case an American citizen is unlawfully treated, it is for them to seek redress; and not infrequently they are called upon to negotiate treaties under the personal direction of the Secretary of State.<sup>1</sup>

**Duties**

Our representatives abroad are accredited to the rulers of the various powers, and foreign representatives in the United States to the President. A government may refuse to recognize in a diplomatic capacity any individual who for special reasons is offensive (*persona non grata*). In such case a new appointment must be made, or as a mark of displeasure the post may be left in charge of a subordinate. So, too, any country may demand the recall of a minister who has made himself obnoxious to its government; or in exceptional cases, may summarily dismiss him.<sup>2</sup>

**Recognition  
and recall**

Diplomatic representatives enjoy important privileges

<sup>1</sup> For the treaty-making power, see Section 212.

<sup>2</sup> The most famous instance in our history was the dismissal by President Washington of the French agent, Genet.





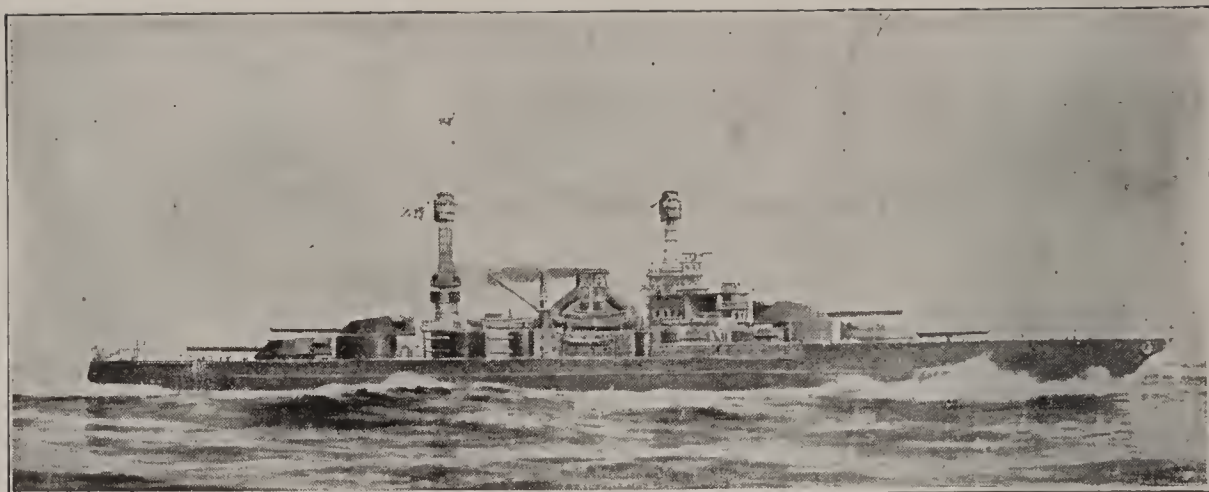
*(By courtesy of the Review of Reviews Company)*

THE GOVERNOR'S PALACE AT SAN JUAN, PORTO RICO



*(By courtesy of the Review of Reviews Company)*

INTERNATIONAL BUREAU OF THE AMERICAN REPUBLICS, AT  
WASHINGTON, D. C.



*Courtesy, Navy Department*

# U. S. BATTLESHIP NORTH CAROLINA



THE UNITED STATES AND ITS POSSESSIONS

Shown by shading, and by names in heavy type.

## TERRITORIAL GROWTH OF THE UNITED STATES

<b>Area of the Original Thirteen States</b>	Alaska 1867 . . . . .	590,884
1789 . . . . .	Hawaiian Islands 1898 . . . . .	6,449
Louisiana Purchase 1803 . . . . .	Porto Rico 1898 . . . . .	3,435
Oregon 1805-1846 . . . . .	Guam, Wake and Tutuila Islands	
Florida Purchase 1819 . . . . .	1898-1899 . . . . .	287
Texas Annexation 1845 . . . . .	Philippine Islands 1898 . . . . .	115,026
Mexican Cessions 1848-1853 . . . . .	Panama Canal Zone 1904 . . . . .	436
Virgin Islands, 1917 . . . . .	150	
<b>Total Area of United States and its Possessions . . . . .</b>		<b>3,743,456</b>
<i>Total Area of Europe . . . . .</i>		<i>3,754,282</i>



and immunities, partly owing to the fact that they are the direct representatives of sovereign powers, partly because the important functions which they perform demand complete independence of action.

Privileges  
and immu-  
nities

The more important of these immunities are: (1) Exemption of the person of the minister from local jurisdiction, civil and criminal. In other words, he is not liable to arrest for any reason whatever, an exemption shared to a certain extent by his family and suite. (2) Inviolability of his residence, papers, and effects from any search or seizure. (3) Exemption of his personal belongings from taxation. (4) Entire freedom of worship for himself and his suite. These privileges result from the principle known to law as *ex-territoriality*; that is to say, by a legal fiction, the minister is supposed to carry with him the jurisdiction of his home government over his person and residence, excluding to this extent the foreign jurisdiction.

**344. Consular Officers and Agents.** Consular officers, the second chief class of foreign representatives, are charged with the special duty of advancing the commercial interests of the United States. The principal consular officers are consuls-general, consuls, and commercial agents. Consuls-general are ordinarily sent to foreign capitals. Generally they have supervisory authority over the consuls in the country to which they are sent, and they often serve as consuls in the city where they reside. The salaries of consuls range from \$2000 to \$8000; those of consuls-general from \$3000 to \$12,000.

Classes and  
salary

Consular officers, like diplomatic representatives, are appointed by the President subject to confirmation by the Senate.<sup>1</sup> Until recent years, any consular officer could be removed by the President at will, and appointments were generally given to those who had made themselves useful in political campaigns. This policy greatly impaired the efficiency of the service; and

Appoint-  
ment and  
tenure

<sup>1</sup> Except commercial agents who are appointed by the President alone.

finally, by executive orders issued in 1906 and 1909, a merit system was established for the consular service (also in the lower grades of the diplomatic service). Original appointments are made from persons whose qualifications have been tested by a non-competitive examination. Promotions are made on the basis of ability and efficiency, as shown in lower grades of the service.

Although consuls are not entitled to the immunities of diplomatic representatives, most countries provide by treaty that they shall not be subject to arrest in civil cases, or to the seizure of their archives.

#### Immunities

**345. Duties of Consuls.** The duties of consuls pertain chiefly to commerce and trade; for example, they certify invoices of merchandise shipped to the United States; advise the home government of any infraction of treaty regulations; and report periodically upon economic conditions in the country where they reside, paying especial attention to possible expansion of United States commerce. They also aid distressed American seamen who are ill or stranded in foreign ports; act as notaries for the authentication of various legal documents; certify to marriages, births, and deaths among Americans living within their respective consular districts; visé and in certain cases issue passports; aid in enforcing our immigration laws; and in general “stand as protectors and advisers of their countrymen in foreign lands.”

#### Miscellaneous duties

Consuls also perform certain judicial functions. They investigate and arbitrate differences between masters and crews which have occurred on American ships on the high seas; and in a number of countries, including Madagascar, China, Siam, and Turkey, our consuls have jurisdiction in both civil and criminal cases involving American citizens.

#### Judicial powers



## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. xvi.  
——— *Readings in American Government and Politics* (1910), ch. xvi.  
Baldwin, S. E., *Modern Political Institutions* (1898), chs. xii, xiii.  
Bryce, James, *The American Commonwealth* (1907), II, chs. xciv, cxii.  
Fairlie John A., *The National Administration of the United States* (1905), pp. 81-91.  
Foster, J. W., *A Century of American Diplomacy* (1900).  
Hart, A. B., *Actual Government* (1903), ch. xxiii.  
——— *National Ideals* (1907), ch. xvii.  
Henderson, J. B., *American Diplomatic Questions* (1901).  
Latané, J. H., *America as a World Power* (1900), ch. vi.  
McClain, E., *Constitutional Law* (1905), ch. xxiii.  
Pomeroy, J. N., *Constitutional Law* (1888), secs. 669-681.  
Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. xii.

## QUESTIONS AND EXERCISES

1. Prepare a report upon the treaty of alliance with France (1778).
2. Discuss the Treaty of Paris (1783).
3. Discuss the origin, applications, and present status of the Monroe Doctrine. (Consult Foster, J. W., *A Century of American Diplomacy*.)
4. Prepare a report upon the diplomacy of the Civil War.
5. Discuss the French occupation of Mexico.
6. Give an account of the Alabama claims.
7. Report upon the rights and obligations of neutrals in time of war.
8. Has the Senate the right to be consulted before beginning treaty negotiations?
9. Give an account of the proposed arbitration treaty with Great Britain in 1897. Why was it rejected by the Senate?
10. May the House of Representatives refuse appropriations necessary to carry out a treaty?
11. May a treaty be superseded by a statute? A statute by a treaty?
12. May a State be compelled to observe the provisions of a federal treaty?
13. Give an account of the annexation of Hawaii.
14. Name several of our most important treaties, and state what questions were decided.
15. Name some of our greatest diplomatic successes.
16. Name several of the greatest ambassadors who have represented the United States abroad.
17. Name our present ambassadors to France, Germany, Great Britain, and Russia. Name the ambassador sent by each of these countries to Washington. Are there any foreign consuls in your city?
18. Describe the efforts to improve our foreign service through the application of civil service rules. (Reinsch, P. S., *Readings*, pp. 651-675.)

## CHAPTER XXVI

### TERRITORIAL FUNCTIONS

**346. Territorial Power under the Constitution.** For several years prior to the adoption of the constitution, the Confederation government had been in possession of a vast domain west of the Alleghanies to which the individual States had surrendered their claims. This condition naturally suggested the provisions of the federal constitution relating to territories and the admission of new States. Accordingly the constitution vests in Congress power “to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States”; and under certain limitations, to admit new States to the Union.<sup>1</sup>

**Right to acquire territory** The constitution itself is silent in regard to the power to acquire new territory; but annexations have been made repeatedly throughout our history, until to-day this right is as firmly established as though expressly granted.

**347. Expansion of the National Area.** Since the origin of the federal Union in 1789, the United States has expanded its boundaries, and its original area of 892,135 square miles has been increased to 3,743,306 square miles at the present time. The various annexations by which this enormous increase has been made are as follows: —

(1) In 1803 the vast territory known as Louisiana was purchased from France for \$15,000,000. This territory included all of the western Mississippi valley and the isle of Orleans, an imperial area of nearly a million square miles.

<sup>1</sup> *Constitution, Art. IV, Sec. 3.*



(2) The second annexation was that of Oregon, the territory west of the Rocky Mountains between parallels forty-two and forty-nine degrees north latitude. Title to this region was by discovery and exploration based partly upon the voyage of Captain Gray in 1792, but chiefly upon the overland expedition of Lewis and Clark in 1805. Our title to Oregon was for a time contested by Spain, Russia, and Great Britain; and the latter country did not relinquish its claim until 1846, when the treaty was signed establishing the present northwestern boundary between the United States and Canada.<sup>1</sup>

(3) In 1819 Florida was purchased from Spain for \$5,000,000, thereby giving the United States a natural boundary on the southeast.

(4) In 1845 the independent state of Texas was admitted to the Union by a joint resolution of Congress.

(5) In 1848, by the treaty which closed the Mexican War, the United States acquired the immense area south of Oregon and west of Texas, including California and what was then called New Mexico.<sup>2</sup>

(6) In 1853 the second Mexican annexation known as the Gadsden Purchase added a narrow strip in the southern parts of Arizona and New Mexico, the consideration paid Mexico being \$10,000,000.

(7) In 1867 the vast territory of Alaska, comprising nearly 600,000 square miles, was purchased from Russia for \$7,200,000.

(8) The Hawaiian Islands, over which a protectorship had virtually existed since 1851, were annexed by a joint resolution of Congress in 1898.

(9) By the treaty which closed the Spanish-American War (December, 1898), Spain ceded to the United States Porto Rico, Guam, and the

Oregon

Florida

Texas

Mexican  
First Mexi-  
can cessionGadsden  
Purchase

Alaska

Hawaii

Porto Rico,  
Guam,  
Philippines

<sup>1</sup> Hence 1846 is often given as the date of this annexation.

<sup>2</sup> On the map of the United States as it is to-day, this territory includes California, New Mexico, Arizona, Nevada, Utah, and portions of Colorado and Wyoming.

Philippine Islands, receiving as indemnity the sum of \$20,000,000.

(10) In addition to the foregoing important annexations, the United States has acquired title to a number of islands of minor importance, including a few guano islands off the coast of South America and in the Gulf of Mexico; also Midway, Baker, and Wake islands in the Pacific; and (in 1899) several of the Samoan islands, the most important of which is Tutuila.

**Samoan and  
minor  
islands**

(11) For a consideration of \$10,000,000 the Republic of Panama in 1904 ceded to the United States perpetual control of a strip of land extending across the Isthmus of Panama, five miles in width on either side of the proposed canal route.

**Panama  
Canal Zone**

(12) In 1917 the United States purchased the Danish West Indies, now called the Virgin Islands, for \$25,000,000.

These three islands were acquired chiefly for strategic reasons, since they form an important link in the chain of defense for the Panama Canal.

**Virgin  
Islands**

348. **Early History of Northwest Territory.** The history of the territories belonging to the United States commences with the vast area north and west of the Ohio River, known as the Northwest Territory. By the Treaty of Paris (1783), Great Britain relinquished her title to this region; and the question of ownership was disputed by Virginia, New York, Massachusetts, and Connecticut.

**Western  
land claims**

These claims were viewed with alarm by such States as Maryland, Rhode Island, New Jersey, and Delaware, themselves so situated that they could not hope to expand in any direction. Maryland took the lead in suggesting that the western lands be formed into a public domain to be held by Congress for the common benefit of the States, and steadfastly refused to ratify the Articles of Confederation until assurance was given that this course would be adopted. Ultimately Con-

**Establish-  
ment of the  
public  
domain**



necticut, Virginia, and Massachusetts, following the example set by New York in 1780, ceded to the United States their claims to the region west of the Alleghany Mountains.<sup>1</sup>

349. **Early Territorial Legislation.** By a resolution passed in 1780, the Continental Congress had promised that the lands ceded by the claimant States should be “dis- **Territorial policy** posed of for the common benefit of the United States, and be settled and formed into distinct republican States which shall become members of the federal Union.” The two principles set forth in this resolution have ever since formed the basis of the territorial and public land policy of the United States.

A few years later Congress voted that a committee should be appointed to draw up a plan for the government of its newly acquired domain in the west; and accord- **Ordinance of 1784** ingly Jefferson as chairman reported the plan which with some changes was adopted as the “Ordinance of 1784.”

350. **Ordinance of 1787.** A second and more famous territorial act, known as the Ordinance of 1787, was adopted by Congress on July 13 of that year. As an organic act this ordinance is only second in importance to the federal constitution itself, for it established firmly the principles which have since formed the basis of our territorial policy. This policy has had as its object, first, the establishment in the territories of that form of civil government which is best adapted to existing needs; and second, the preparation of the territories for their future position as States in the Union.

The ordinance provided for two stages of territorial government. A temporary government was to be first instituted, under which laws were to be made by the gover- **Territorial government** nor and three judges appointed by Congress. As soon as there were five thousand free male inhabitants of voting age in the territory, this temporary government was

<sup>1</sup> Except the Connecticut Reserve, a strip of land along the southern shores of Lake Erie, reserved by Connecticut in aid of education.

to be superseded by a more permanent government, representative in character. A legislature of two houses was then to be created, the upper house consisting of a council of five members appointed by Congress; while the lower branch was to be chosen for a term of two years by the voters of the territory. The legislature thus constituted had power to pass any law not repugnant to the principles of the ordinance, subject to the governor's right of absolute veto.

**351. Later Territorial Legislation.** Since the enactment of the Ordinance of 1787, Congress has passed many acts providing for territorial government, legislation made necessary by the additions to the national area. In all, twenty-nine organized territories have been created within the boundaries of the United States, while three territorial governments have been provided for the insular possessions.<sup>1</sup>

Nearly all of these have passed through the two stages of territorial government provided for in the Ordinance of 1787. First a provisional government was established in which the people had practically no voice; and this was followed as soon as conditions permitted by the establishment of representative government.

**352. Territories and Possessions on the American Continent.** The territories now belonging to the United States may be divided into two groups: first, the continental territories; and second, the insular territories or dependencies.

The continental territories include Alaska and the Panama Canal Zone. The District of Columbia has an unusual form of territorial government, specially devised for the seat of the national government.

**353. The Government of Alaska.** For nearly half a century, Alaska remained in the first or provisional stage of territorial government; but in 1912, representative govern-

<sup>1</sup> The States which have never been territories of the United States include, besides the original thirteen, Maine, Vermont, Kentucky, West Virginia, Texas, and California.



ment was granted to this territory. The first legislature met at Juneau in March, 1913. Eight Senators and sixteen Representatives were elected to make laws for this vast but sparsely settled country. The executive officers include a governor, surveyor-general, district attorney, and judges, all appointed by the President.

**354. The Panama Canal Zone.** This latest territorial acquisition of the United States is now under a civil governor, appointed by the President. Until the opening of the canal in 1914, the district was governed by the Isthmian Canal Commission of seven members, acting under the direction of the Department of War.

**355. Representative Territorial Government.** For many years prior to their admission to statehood, New Mexico and Arizona had representative territorial gov- **Executive**  
ernments of the type which has been provided **officers**  
for most of our continental territories.<sup>1</sup> Under this form of government, executive power is vested in a governor appointed for four years by the President with the consent of the Senate. The powers of the territorial governor are quite similar to those of the governor of a State, but he is directly responsible to the President, to whom he reports annually on the condition of affairs in the territory. Other administrative officers are the secretary, treasurer, auditor, and superintendent of public instruction.

The territorial legislature consists of two houses, an upper house or council, and a house of representatives. Members of both branches are chosen for a term of two **Territorial**  
years by the qualified voters of the territory. The **legislature**  
organization, procedure, and powers of the legislature are carefully regulated by federal statute, and are substantially the same as those of the legislatures of the several States. However, acts of the territorial legislature, besides being subject to the veto power of the governor, are liable to be annulled by Congress.

<sup>1</sup> New Mexico was organized as a territory in 1850; Arizona in 1863.

Judicial power is vested in a supreme and several district courts, the judges of which are appointed by the President. The territorial legislature has power to establish such inferior courts as are found necessary.

Each territory sends to the House of Representatives a delegate, who has the salary and other privileges of a member, except the right to vote.

Thus the framework of government in the territories approximates closely to that which exists in the States, the essential distinction being the subordinate position which the territory occupies in relation to the Union. National control is at all times paramount, and is exercised through acts of Congress modifying the status of the territory, or, in exceptional cases, directly annulling the acts of its legislature. Furthermore, federal administrative control is secured through the President's power to appoint and remove the principal territorial officers.

**356. The District of Columbia.** Among the powers which the constitution confers upon Congress is the right "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States."<sup>1</sup> In 1790 the States of Maryland and Virginia ceded to the United States a district ten miles square lying upon the banks of the Potomac; but the part upon the south bank was retroceded to Virginia in 1846, reducing the district to its present area of about seventy square miles.

The government of the District differs radically from that which prevails in other territories, since the residents are completely disfranchised. They have no vote in the election of either local or national officials nor are they represented in Congress by a delegate. Congress

<sup>1</sup> *Constitution, Art. 1, Sec. 8, Par. 17.*



itself acts as the local legislature for the District, setting aside certain days each month for the consideration of its affairs.

Administrative powers are vested in a board of three commissioners appointed by the President with the consent of the Senate. One of the members is an experienced officer of the Engineer Corps of the army, detailed for an indefinite term; the other two are civilians, appointed for a term of three years. This board has large administrative powers, as well as the power of making local ordinances.

Board of  
Commis-  
sioners

On the whole, this plan of government, non-representative as it is, has worked admirably. The affairs of the District have been managed efficiently, and Washington is conceded to be one of the best-governed cities in the world.

Success of  
present plan

**357. Other National Property.** More than two thirds of the present area of the United States has at one time or another formed a part of the public domain belonging to the national government. The greater part has been disposed of in various ways, chiefly by sale at a nominal price to individual settlers, or as bounties for military or naval service, or as grants to promote the construction of railroads, or in aid of education and internal improvements.

The public  
domain

Congress has the exclusive right of legislation "over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."<sup>1</sup> Under this provision the federal government has acquired many sites for navy-yards, arsenals, military posts, lighthouses, post offices, customs houses, and other public buildings. Land to be used in this way is obtained by cession from the State legislature, and is thereafter exempt from State or local taxation.

Military and  
administra-  
tive sites

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 17.

Under its constitutional power to regulate commerce with the Indian tribes, the federal government **Indian reservations** also exercises special jurisdiction over numerous reservations scattered throughout the West.

**358. Insular Territories or Dependencies.** The insular dependencies of the United States include Hawaii, annexed in 1898; Porto Rico, the Philippines, and Guam, acquired in 1899 as a result of the war with Spain; a few islands of the Samoan group acquired by treaty in 1900; three small Pacific islands — Wake, Midway, and Baker, claimed by right of discovery since 1898; and the Virgin Islands, purchased from Denmark in 1917.

Of these dependencies, Hawaii, Porto Rico, and the Philippines possess representative territorial governments quite similar to the plan under which most of our States were governed before they were admitted to the Union. Such minor dependencies as Guam, the Virgin Islands, and the Samoan Islands are under the control of the naval officers in command of the naval stations; while Midway, Baker, and Wake Islands require no government, being practically uninhabited.

**359. Hawaii.** Hawaii is governed by an act of Congress passed in 1900. This act confers citizenship in the United States upon the citizens of Hawaii. The President appoints the governor; and this officer, with the consent of the territorial Senate, appoints the chief executive officials.

**360. Government of Porto Rico.** Porto Rico was governed by the War Department from its occupation by General Miles in 1898 until the establishment of a civil government by an act of Congress passed in 1900. This act continued in force until 1917, when a new law was passed for the government of the island. The Porto Ricans were then made citizens of the United States, and were granted a larger share in their own government.

Executive power is vested in a governor, appointed by the President, and in seven administrative officers. Two of these administrative officers are appointed by the Presi-



dent, the others by the governor of the territory. The legislature consists of two houses, a Senate and a House of Delegates, the members being elected by popular vote. Representation at Washington is secured through the election by the qualified voters of a commissioner, chosen for a term of two years.

Executive  
and legis-  
lature

361. **The Philippine Islands.** The problem of establishing a suitable government for the Philippines has proved a difficult one, because these islands are inhabited by races of almost every stage of development from savagery to civilization. The present government is in accordance with an act passed by Congress in 1916, and consists of a central government over the entire archipelago, with subordinate provincial and municipal governments.

A difficult  
problem of  
government

The executive department consists of the Governor General, the Vice Governor, the heads of the executive departments, and an auditor. The Governor and Vice Governor are appointed by the President with the consent of the Senate, while the heads of the executive departments are appointed by the Governor General. The legislature consists of two houses, a Senate of twenty-four members and a House of Representatives of ninety members. As a rule, members of both houses are elected by a restricted suffrage; but two senators and nine representatives are appointed by the Governor General to represent the non-Christian tribes of the islands.

Executive  
and legisla-  
ture

362. **Admission of New States.** Territories are virtually inchoate or rudimentary States; and to prepare them for statehood as soon as their population and circumstances warrant has been the prime object of our territorial policy. Under the constitution, Congress is vested with power to admit new States into the Union; and it is for Congress to determine upon what conditions this action will be taken. Thus the new State may be required to accept certain boundaries, or to incorporate into its constitution certain fundamental provisions respecting religious

Conditions  
of admission

freedom, and the like; and in all cases the government provided by its constitution must be republican in form.

A population at least equal to that of an average congressional district has usually been a prerequisite to admission, but the practice has not been uniform.

**Population**

Nevada with a population of 20,000 was admitted in order to obtain the vote of that State for the thirteenth amendment. On the other hand, Utah with a considerable population was long denied statehood because of the institution of polygamy; and New Mexico and Arizona were refused admission for many years on the ground that their population, including many persons of Mexican blood, was not prepared for self-government.

Practically the only limitation upon the power of Congress in forming States is that the new commonwealth must

**State not  
to be sub-  
divided**

not include territory lying within the boundaries of a State already admitted, without the consent of the legislature of the State concerned. By

express constitutional provision, territory cannot be taken from or added to any State without the consent of the States concerned, as well as of Congress.<sup>1</sup>

In admitting new States to the Union, two different methods have been followed. Frequently Congress has

**Methods of  
admitting  
States**

passed an enabling act authorizing the people of the territory to frame a constitution and apply for admission. In other cases, the citizens of the

territory, acting on their own initiative, have called a convention and framed a constitution, which, after ratification by the voters, has been submitted to Congress for approval. Either of these methods of procedure is merely a preliminary step, the final decision as to admission resting entirely with Congress.

<sup>1</sup> The only case in our history of the subdivision of a State without its consent was that of West Virginia, which separated from the Old Dominion in 1861 in consequence of the ordinance of secession adopted by the State convention at Richmond. That part of the State west of the Alleghanies thereupon formed a separate government, and was admitted to the Union by Congress in 1862. Later Virginia acknowledged the validity of the creation of the new State.



363. **Position of States in the Union.** Although a new State can only be admitted upon such terms as Congress may prescribe, once in the Union it is on an equal footing with other States in all respects; and according to the weight of authority, may even amend its constitution regardless of conditions which have been imposed by Congress. Moreover, once in the Union a State cannot under any circumstances withdraw or secede, the Civil War having forever settled the principle that this is "an indestructible Union of indestructible States."

Position  
after  
admission

Immediately after the Civil War, the question arose as to the status of the eleven States which had passed ordinances of secession. Widely divergent views were held by President Johnson and Congress; but the congressional theory finally prevailed. This held that although the Southern States had never been out of the Union, their rebellion had forfeited their rights as States, and practically reduced them to the condition of conquered territory. Hence it was for Congress to determine how long this status should continue, as well as the conditions upon which the former States might be "reconstructed," and restored to their former privileges as commonwealths.

Secession  
and recon-  
struction

### GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. XXI.  
 ——— *Readings in American Government and Politics* (1910), ch. XXI.  
 Bryce, James, *American Commonwealth* (1907), I, ch. XLVII.  
 Hart, A. B., *Actual Government* (1903), chs. XVIII-XX.  
 Hinsdale, B. A., *The Old Northwest* (1888), chs. X. XIV.  
 McClain, E., *Constitutional Law* (1905), pp. 262-267.  
 Munro, William B., *The Government of the United States* (1920), pp. 372-388.  
 Reinsch, P. S., *Colonial Government* (1902), part VII.  
 Willoughby, W. F., *Territories and Dependencies of the United States* (1905).  
 Woodburn, J. A., *The American Republic* (1908), ch. VIII.

### QUESTIONS AND EXERCISES

1. Prepare a report upon the territorial growth of the United States.
2. On an outline map of the United States mark off with different colors the various territorial annexations.

3. Describe the territorial policy of the United States. Discuss some of the problems arising from the annexation of the Philippines.
4. Discuss the influence of the Ordinance of 1787: (a) upon local self-government; (b) upon slavery; (c) upon education.
5. Discuss the method of admitting a State into the Union.
6. Give an account of the Louisiana Purchase. What States were formed out of this territory?
7. What States, besides the original thirteen, have never been national territories?
8. Bound your State. Has it ever been part of, or has it ever included another State?
9. How did your State receive its name? Its nickname?
10. When was your State admitted to the Union? Describe its territorial government prior to admission. How long was it an organized territory? Give a history of the steps by which admission was secured.
11. Why was the capital of the United States placed under the exclusive control of Congress? Why was the present form of government established for the District? What political rights are denied to residents of the District?
12. Describe the city of Washington — street plan, principal public buildings and places of interest, monuments, and surroundings.
13. Name any public buildings, forts, or reservations in your community which belong to the federal government.
14. Do the provisions of the constitution extend to the territories?
15. What degree of local self-government has been granted to our insular possessions? Why are not the same political rights accorded to them as to continental territories?
16. Is there any likelihood that our insular possessions will ever be admitted as States?
17. Under the provisions of the constitution, could Texas be divided into four States? Could Indiana and Illinois be united into a single State?



## CHAPTER XXVII

### MILITARY POWERS

364. **War Powers of the Federal Government.** The constitution entrusts the war power to the federal government, the States being absolutely prohibited from keeping troops or ships of war in time of peace, or from engaging in war unless actually invaded or in imminent danger. The military powers vested in Congress by the constitution include the right (1) to declare war; (2) to grant letters of marque and reprisal; (3) to make rules concerning captures on land and water; (4) to raise and support armies, (5) to provide and maintain a navy; (6) to make rules for the government and regulation of the land and naval forces; and (7) to organize, arm, and discipline the militia.<sup>1</sup>

**Military  
powers of  
Congress**

Important military powers are also entrusted to the President, since he is commander-in-chief of both army and navy, has power to call out the militia under certain conditions, and may make treaties with the advice and consent of the Senate.

**President's  
military  
authority**

365. **The Declaration of War.** A formal declaration of war is sometimes made at the outbreak of hostilities between two countries, this declaration serving as a public notice of the existence of war, and imposing upon other nations the obligations of neutrality. The declaration is usually preceded by the dismissal of the respective ambassadors, thus severing diplomatic intercourse between the two countries. The right to declare war necessarily includes the power to wage war by every means known to any nation, subject only to the limitations prescribed by international law.

**Object and  
effect**

<sup>1</sup> *Constitution, Art. I, Sec. 8, Pars. 11-16.*

**366. Letters of Marque and Reprisal.** Letters of marque and reprisal are commissions authorizing "persons who are not in the regular service of the country to exercise the public power of warring upon and capturing vessels of the enemy upon the high seas." In other words, such letters are commissions which license privateering. Most of the great powers except the United States have subscribed to the Declaration of Paris (1856), abolishing privateering as a means of waging war. Privateering was extensively used in the War of 1812 against Great Britain, but no privateers were licensed during the Spanish-American War.

**367. Captures on Land and Water.** The power to make rules concerning captures on land and water authorizes

**Prize regulations and courts**

Congress to regulate the disposition of all property captured in time of war. Such captures may consist either of the persons or property of the enemy, or of neutral ships or goods taken while violating the rules of war; e.g., when neutral ships attempt to enter a port declared by one of the belligerents to be in a state of blockade. In the exercise of its authority concerning captures, Congress has enacted a complete code of prize regulations, and has established a system of prize courts. Congress may also enact temporary regulations for the government of territory of the enemy occupied by the forces of the United States, such territory being subject to final disposal through the treaty-making power vested in the President and Senate.

**368. Power to raise and support Armies.** The constitution vests in Congress power "to raise and support armies," subject to the provision that "no appropriation of money to that use shall be for a longer term than two years." This limitation was designed as a check upon possible abuse of power by the President as commander-in-chief. Since army appropriations must be made every two years, the military branch of the government is completely dependent upon the will of Congress.

**Limitation upon power**



The right to raise armies authorizes Congress to employ all means by which troops may be raised, even including a conscription or draft. “Supporting” armies and “maintaining” navies includes not only pro-  
Extent of  
power
vision for food, clothing, transportation, equipment, and medical care of troops; but also authorizes the construction of forts, coast defenses, barracks, arsenals, depots, coaling and naval stations and yards. In fact, this clause empowers the federal government to employ all necessary and proper means which will further the country’s defense — it may manufacture arms and ammunition, build ships, educate officers in military and naval science, organize war and navy departments, provide for the payment of bounties and pensions, and perhaps may even construct railways as a means of facilitating the transportation of troops and *matériel* of war.

Throughout our history the standing army has been small except during actual war. Until 1898 the army on a peace footing numbered less than 27,000 men; but in 1901, shortly after the war with Spain, the  
The stand-  
ing army
President was authorized to increase the army at his discretion to a maximum of 100,000 men. In 1916, Congress passed the Army Reorganization Act, which increased the size of the standing army to a theoretical strength of about 250,000 men.

In time of peace the army is recruited out of volunteers between the ages of eighteen and thirty-five who succeed in passing a rigid physical examination. The pay of private soldiers is small — from fifteen to  
Pay and  
duties of  
troops
eighteen dollars a month, besides barracks and food. The ordinary peace duty of the army is to garrison military posts and stations, protect government property, and serve as a reserve force in case of disturbances with which State authority cannot cope.

In time of war, troops may be raised in three ways. (1) By enrollment of volunteers, as in time of peace. (2) The

President may call upon the States to furnish troops, under his power to call out the militia. (3) By conscription or draft, that is, the selection of men by lot for compulsory military service. The first two methods have been employed in nearly all of our wars; drafting was resorted to during the Civil War, and during the World War.

Recruiting  
in time of  
war

**369. Officers of the Army.** The President is commander-in-chief of the army; and under him as acting head of the administration is the Secretary of War. The grades of officers are general and lieutenant-general (titles given as honorary distinction in recognition of signal services); major-general, brigadier-general, colonel, lieutenant-colonel, major, captain, first and second lieutenant. The salaries of officers range from \$8000 for major-general down to \$1700 for second lieutenant, with fixed increases after a certain length of service.

Grades of  
officers

Officers are appointed by the President subject to confirmation by the Senate. Most of the higher officers are graduates of West Point; but in some cases they are appointed directly from civil life, and not infrequently men from the ranks are promoted to commands. Neither army nor naval officers may be removed in time of peace except by court-martial; but in time of war the President may remove summarily. Provision is made by law for the compulsory retirement of officers who have reached the age of sixty-four, and for their voluntary retirement after forty years of service. Retired officers receive for the remainder of their lives three fourths of the pay of their rank at retirement.

Appoint-  
ment and  
retirement

**370. Education of Officers.** The necessity of professional training for military officers was realized at an early date, and in 1802 Congress authorized the establishment at West Point, New York, of the Academy which has since become one of the famous military schools of the world.

West Point



Under the present plan, each Senator, each congressional district, and each territory is entitled to one cadet at West Point, appointed by the Secretary of War upon the nomination of the Senator or Representative concerned. In addition, forty cadets are appointed at large by the President, these appointments being commonly given to the sons of army or naval officers. Appointees must be between the ages of seventeen and twenty-two years, and must pass a thorough physical and mental examination, the latter including the common branches, also the subjects usually given in the first two years of the high-school course.

Appoint-  
ment of  
cadets

The course of instruction requires four years, and is chiefly mathematical and professional. Each cadet is paid by the government \$700 per year, a sum about sufficient for his support. Only one leave of absence is allowed during the four years, and this is granted at the end of the second year. Academic duties continue from September 1 to June 1, the intervening months being spent in camp, where practical military training is given. Upon graduation cadets are commissioned as second lieutenants in the United States Army.

Course of  
instruction.

Besides the Academy at West Point, the United States maintains several schools for more advanced military training. These include the War College, the Engineer School, and the Army Medical School, at Washington, D.C.; the Army Service Schools at Fort Leavenworth, and the Mounted Service School at Fort Riley, Kansas; the Field Artillery School at Fort Sill, Oklahoma; the Coast Artillery School at Fortress Monroe, Virginia. There are also garrison schools at each military post for the instruction of officers, and schools for enlisted men, who are instructed both in the common branches and in military subjects. Valuable military training is also given in the State universities and agricultural colleges.

Other  
military  
schools

**371. Militia.** On account of the traditional distrust of a

standing army, the United States has always relied largely for its defense upon the militia, or citizen soldiery. This reliance has proved a vain one in every war in which the United States has been engaged. Our history proves conclusively that only national troops under exclusive national discipline and control are adequate for national defense. Ignoring the lesson of history, the Army Reorganization Act of 1916 placed its reliance for second-line defense upon the old militia system, revamped so as to provide for a larger degree of federal control.

Our national constitution provides that the President may call out the militia for three purposes, namely: to execute the laws of the Union, suppress insurrection, and repel invasion. Under this clause the President had no authority to send the militia outside the borders of the United States. The new militia act removed this restriction, authorizing the President to draft the State militiamen into the national service whenever Congress declares this necessary. National guardsmen enlist for six years, three in the active organization, and three in the reserve.

The inherent weakness of the militia system is that, like anything short of universal training, it distributes the military burden unequally; and it always breaks down in practice.

On four occasions — the Whiskey Rebellion (1794), the War of 1812, the Civil War, and the World War, — the militia were called out by the President. In the Civil War, President Lincoln issued three calls for the militia as such, to the aggregate number of 475,000 men.

**372. The Navy.** Notwithstanding its splendid services in the War of 1812, and in the earlier struggle with the Barbary pirates (1801–1805), the American navy remained small and neglected throughout the greater part of our history. Finally in 1882 came a change in policy, and in the following year many new vessels of the

Defects of  
militia  
system

Federal  
service

History  
of navy



most approved type were constructed. The wisdom of maintaining an adequate navy was proved in the war with Spain, when the new navy first demonstrated its efficiency as a fighting force. Since that war the program of expansion has continued, until to-day the American navy ranks with the most powerful navies in the world.

373. **Education of Officers.** The naval school corresponding to West Point is the United States Naval Academy at Annapolis, established in 1845. At present two midshipmen are allowed for each Senator, Representative, and delegate in Congress, two for the District of Columbia, and fifteen each year from the enlisted personnel of the navy. These are appointed by the Secretary of the Navy upon the nomination of the individual Senators, Representatives, or delegates. In addition, the President appoints one midshipman from Porto Rico, and ten at large from the United States. Candidates for appointment must be between sixteen and twenty years of age, and must pass entrance examinations similar to those required at West Point.

United  
States Naval  
Academy

The six-year course of instruction corresponds in many respects to that given in advanced technical schools. The last two years of the course are spent at sea, after which come the final examinations. There are annual practice cruises from June 1 to September 1. Midshipmen are paid \$600 annually from the date of admission, and upon graduation receive commissions as lieutenants of junior grade.

Advanced naval instruction is given in the Naval War College at Newport, Rhode Island, where officers are instructed in special branches, and plans prepared for naval operations. Other schools are the Naval Torpedo School at Goat Island, the several apprentice training schools for enlisted men, and the gunnery training schools for both officers and men.

Other naval  
schools

374. **Rules for the Government of Land and Naval Forces.** The power "to make rules for the government

and regulation of the land and naval forces" is necessarily included in the power to declare war, and to raise and maintain armies and navies. At an early date, Congress adopted rules and articles for the government of the army and navy, thus establishing a code of military law for the government of land and naval forces. Petty offenses in both army and navy may be punished by the commanding officer; while more serious offenses are tried by court-martial.

**375. Military Pensions.** The pension system of the United States dates from the Revolutionary War, at which time the Continental Congress promised pensions for soldiers who should be disabled, and for the families of those who perished in the struggle. This promise was carried out in 1792 by the enactment of a general pension law; and since that time the United States has provided more generously for those who have fought for its flag than any other nation in the world. In addition to a disability pension, the soldiers of the Revolutionary War, of the War of 1812, and of the Mexican and Indian wars, were given grants of public lands amounting in effect to a service pension.

Down to the Civil War, expenditures for pensions did not exceed \$3,000,000 per year, and at the beginning of that struggle there were only 8636 pensioners on the rolls. Early in the Civil War, Congress pledged the public faith that those who were disabled in that terrible conflict, and also the families of those who were killed, should be provided for by the government. Accordingly, by the act of 1862, pensions were granted to disabled soldiers, and also to the widows of those who had fallen. Under this law, expenditures for pensions increased rapidly, but in no year before 1890 did the amount reach \$100,000,000. In that year an act was passed which greatly broadened the scope of the system by granting pensions to all persons who, having served in the Civil War, had become for any



reason unable to earn a livelihood. This act has very greatly increased pension expenditures, the annual amount of which has not been less than \$138,000,000 in any year since 1892. The last act for the benefit of Civil War veterans (passed in 1907) provides a service pension for all who served in the war, regardless of disability. At present there are about 900,000 pensioners on the rolls.

Since the establishment of the national government in 1789, the total cost to the United States for pensions is estimated by the Commissioner of Pensions to exceed four billion dollars. Over ninety per cent of this enormous sum resulted from the Civil War, the total expenditure for Civil War pensions having now exceeded the original cost to the federal government of the war itself. At the present time the annual military expenditures of the federal government — including the cost of the army and navy and of pensions — comprise about seventy per cent of the net ordinary expenses of government.

A better plan was worked out when the United States entered the great World War, by which the government provided insurance for men in the army and navy. A Bureau of War Risk Insurance in the Treasury Department insured the men at rates about equal to what they would pay in time of peace. The government also made a family allowance for each man who had a wife or children dependent upon him, and provided a fixed compensation in case of his death or disability resulting from service.

#### GENERAL REFERENCES

- Ashley, R. L., *The American Federal State* (1903), secs. 304–307.  
 Beard, C. A., *American Government and Politics* (1910), ch. xvii.  
 ——— *Readings in American Government and Politics* (1910), ch. xvii.  
 Black, H. C., *American Constitutional Law* (1897), pp. 220–224.  
 Fairlie, J. A., *The National Administration of the United States* (1905), chs. ix, x.  
 Harrison, B., *This Country of Ours* (1903), chs. xiii, xvi.  
 Hart, A. B., *Actual Government* (1903), ch. xxv.

- McClain, E., *Constitutional Law in the United States* (1905), ch. xvii.  
Pomeroy, J. N., *Constitutional Law of the United States* (1888), secs. 441-482.  
Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. xi.  
Tucker, John R., *The Constitution of the United States* (1899), pp. 576-597.  
Upton, Emory, *The Military Policy of the United States* (1904).

## QUESTIONS AND EXERCISES

1. Name the causes, principal battles, and results of each of the five great wars which the United States has waged.
2. Name several restrictions imposed by international law upon methods of warfare.
3. What are the rights and duties of neutrals with regard to belligerent powers?
4. Prepare a report upon the President's military powers in time of war.
5. What is martial law? May a civilian be court-martialed?
6. May the property of individuals be confiscated as a war measure?
7. Have our recent territorial acquisitions involved any change in our historic military policy?
8. What is the present strength of our standing army? Into what departments is it organized? Who is the commanding general?
9. What was the amount of last year's appropriation for the army? For the navy? For coast defense? For pensions? Do you consider the total appropriation for military purposes excessive?
10. Assuming that preparation for war is a necessity, which should receive most attention, the army, navy, or coast defense?
11. Describe the principal defenses of the Pacific coast; of the Atlantic coast.
12. Give an account of the United States Military Academy; of the United States Naval Academy.
13. Give an account of the achievements of our navy in the Spanish-American War.
14. Compare our navy with that of Great Britain, Germany, France, and Japan.
15. Give an account of recent pension legislation.
16. Suggested readings upon the army and navy: Reinsch, P. S., *Readings*, pp. 610-650.



## CHAPTER XXVIII

### MISCELLANEOUS POWERS

**376. Control of Naturalization.** Under the constitution, Congress has exclusive power to establish a uniform rule on the subject of naturalization; or in other words, **Aliens and** to determine the conditions upon which aliens may **citizens** become citizens. An alien is a person who by reason of his foreign birth is not entitled to the privileges of American citizenship. Citizens are of two classes — native-born and naturalized. In general, all persons born within the United States, as well as the children born abroad of American parents, are native-born citizens. Naturalized citizens are aliens who have attained citizenship through the process of naturalization.

**377. Process of Naturalization.** The method of naturalization prescribed by Congress requires a minimum residence in this country of five years. At least two **Declaration** years before his final admission, the alien must **of intention** declare on oath that it is his intention to become a citizen of the United States, and to renounce forever his allegiance to the foreign country of which he is a subject or citizen. This declaration is made before a circuit or district court of the United States, or before a court of record of the State in which the applicant resides. The declaration of intention sets forth the applicant's name, age, occupation, personal description, place of birth, last foreign residence and allegiance, date of arrival in the United States, and present residence. The declaration is recorded and a certified copy furnished the applicant, who is then said to have taken out his first papers, or to have made his declaration.

Not less than two nor later than seven years from the

declaration of intention, the applicant may present to the court a petition signed in his own writing and duly verified, requesting admission to full citizenship. This sets forth the fact that the petitioner has been a resident of the United States at least five years continuously, and of the State or district where the court is held at least one year; that he is not opposed to organized government, and is not a believer in polygamy; and that he absolutely and forever renounces all allegiance to the foreign country of which he has been a citizen. Finally, the applicant must declare on oath in open court that he will support the constitution of the United States. Two witnesses must testify to his term of residence; and if it appears to the satisfaction of the court that during that time he has conducted himself properly, he may be admitted to citizenship.<sup>1</sup> The naturalization of an alien includes his wife and minor children residing in this country. 192

**378. Naturalization of Communities.** When foreign territory is annexed to the United States, Congress may pass a general act conferring citizenship upon the inhabitants of such territory. This was done upon the annexation of Texas, New Mexico, and California, and shortly after the annexation of Hawaii.<sup>2</sup> The inhabitants of Porto Rico and the Philippines are entitled to the protection of the United States, but Congress has not yet conferred upon them the privilege of citizenship.

**379. Effects of Naturalization.** The result of naturalization is to confer practically all the privileges of native-born citizens, except that of eligibility to the Presidency or Vice-Presidency.<sup>3</sup> Naturalized citizens become citizens of the State or territory in which they re-

<sup>1</sup> The privilege of naturalization is not accorded to aliens of all races, but is limited to "aliens being free white persons, and to aliens of African nativity and persons of African descent." The naturalization of Chinese is expressly prohibited by act of Congress; nor may citizenship be conferred upon aliens who cannot speak English.

<sup>2</sup> Another instance of collective naturalization was that which resulted from the adoption of the fourteenth amendment.

<sup>3</sup> At least seven years of citizenship is required in order to be eligible to the House of Representatives, and nine years for the Senate.



side, as well as of the United States. Naturalization does not of itself confer the right of suffrage, since the right to vote comes from the State, and the qualifications for suffrage are determined by State laws. But most States confer the right to vote upon all citizens of the United States who have resided within the commonwealth for one year; and eleven States even permit aliens to vote, provided they have declared their intention of becoming citizens.

**380. Power over Bankruptcy.** A bankruptcy law is one which provides for the equitable division among his creditors of the property of an insolvent debtor, where- **Bankruptcy laws** upon the latter is discharged from legal liability for the remainder of his debts. The object of a bankruptcy law is to afford relief to the debtor who is hopelessly insolvent, while also securing to each creditor payment of a proportionate share of his claim.

The constitution vests in Congress power to establish uniform laws on the subject of bankruptcy throughout the United States. If Congress does not exercise this power, the States may pass laws dealing with the **Federal and State legislation** subject; but when Congress passes a national bankruptcy act, State bankruptcy laws are thereby suspended, the federal law operating throughout the entire Union.

On four occasions in our history, Congress has exercised this power, but most of the federal bankruptcy **Federal bankruptcy laws** laws have been of brief duration. Thus the bankruptcy act of 1800 was repealed in 1803; that of 1841 in 1843; that of 1867 in 1878; while the law passed in 1898 remains in force.

**381. Power over Copyrights.** In order to promote the progress of science and the useful arts, the constitution vests in Congress the power to enact copyright laws, **Copyright laws** whereby the works of authors may be protected. A copyright law is one which secures to an author the exclusive right to print, publish, and sell his writings, and

generally the exclusive right to dramatize them. The present law grants a copyright for a term of twenty-eight years, and provides for a renewal by the author (or the widow, widower, or children of the author, or next of kin) for the further term of twenty-eight years.

**382. Patents.** Congress has authorized the granting of patents securing to inventors for a limited period the exclusive right to make, manufacture, and sell their inventions. Patents may be granted to any person who has invented or discovered any new or useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof; or any new or original design for an article or manufacture. Patents are valid for a period of seventeen years.

Patents are issued through the Patent Office, a bureau of the Department of the Interior since 1849. Applications must be made in writing to the commissioner of patents, the applicant being required to state under oath that he believes himself to be the original inventor of the article upon which he seeks a patent. The application must be accompanied by a written description of the invention, giving all the specifications in a full, clear, and concise manner. The description is generally accompanied by drawings, and if necessary the inventor may be required to furnish a model.

The Patent Office with its collection of valuable models is one of the most interesting of the government bureaus. The office performs an economic service of the highest importance in encouraging invention; and it is estimated that one third of the world's important inventions originate in the United States. Since 1837 one million patents have been issued.

**383. Weights and Measures.** Although expressly authorized by the constitution to fix the standard of weights and measures, Congress has done little in the exercise of this power. Legislation has been enacted providing a stand-



ard troy pound for the regulation of the coinage (1828), establishing uniform standards for use in the customs and internal revenue service, and making permissive but not obligatory the use of the metric system (1866).

In the absence of exclusive congressional legislation, each State has the right to adopt its own standard of weights and measures. The States have retained the old English standards, instead of adopting the metric system used throughout the greater part of the civilized world. Whenever Congress sees fit to establish a national standard, these State laws will be superseded, just as in the case of a national bankruptcy law.

**384. Federal Power over Crimes.** The power of Congress to define and punish crimes is either expressly granted by the constitution, or necessarily implied in the grant of other powers. Authority is expressly conferred to deal with the following crimes: (1) counterfeiting; (2) piracies and felonies committed on the high seas; (3) offenses against international law; and (4) treason.

Congress has implied power over a large number of crimes, this authority being indispensable to the effective exercise of the law-making function. Thus the power to establish post offices and post roads necessarily implies power to punish the crime of robbing or obstructing the mails; the power to levy customs duties and excises requires provision for penalties at every step; and many similar examples could be added.

**385. Counterfeiting.** Congress is expressly empowered to "provide for the punishment of counterfeiting the securities and current coin of the United States."<sup>1</sup> Counterfeiting includes not only the manufacture of forged coins and securities, but also passing them when made, or having them in possession with intent to pass them. The term also includes the counterfeiting or passing counterfeits of excise and postage stamps, stamped envelopes, postal cards, let-

<sup>1</sup> *Constitution*, Art. I, Sec. 8, Par. 6.

ters patent, postal money orders, custom-house certificates, land-warrants; and also the coins, notes, and bonds of foreign governments.

**386. Piracy.** Congress is empowered to define and punish piracies and felonies on the high seas, and offenses against the law of nations. Piracy as the word is used in international law denotes robbery or forcible depredations committed on the high seas. The jurisdiction of a country over the adjacent sea ordinarily extends to a line three miles beyond low-water mark; but the high seas or ocean lying outside this line form the highway of nations, subject to their common jurisdiction. Pirates may be lawfully captured on the ocean by the ships of any nation, and every country has jurisdiction to punish them, since they are regarded as the common enemies of mankind. The universal penalty for piracy is death.

Since Congress has power to define piracy, it may enlarge the definition so as to include other crimes than piracy as known to the law of nations. Accordingly, Congress has provided that certain other offenses shall be deemed piracy, such as the slave-trade, murder on the high seas, and acts of hostility against the United States or its citizens under color of a commission from a foreign state.

**387. Offenses against the Law of Nations.** Congress also has power to punish offenses against the law of nations. Instances of the exercise of this power are to be found in the neutrality laws which forbid the fitting-out of armed vessels, or the enlisting of troops within the United States for the use of a belligerent power. Another example is the law which prohibits the organization within the boundaries of the United States of armed expeditions against friendly nations.

**388. Treason.** Since treason aims at the very life of government, it has always been considered the most serious of crimes, and punished with the

Meaning  
in interna-  
tional law

Extension  
of term

Common-  
law treason



severest penalties. At the ancient common law, the definition of treason was left largely to judicial discretion; and as a result many offenses were included in the class of constructive treason, subjecting those who committed them to the most barbarous punishment. Finally in the reign of Edward III, Parliament swept away the doctrine of constructive treason by a statute declaring and defining all the different branches of treason.

Similarly the framers of the constitution, in order to prevent legislative or judicial extension of the term, inserted in that instrument the definition of treason as consisting only in levying war against the United States, or adhering to its enemies, giving them aid and comfort. To constitute this crime, war must be actually levied against the United States; a conspiracy to subvert the government by force, although criminal, is not treason. As an additional safeguard to a person accused of treason, the constitution declares that there shall be no conviction except on the testimony of two witnesses to the same overt act, or on confession in open court. The penalty for treason under existing laws is death; or at the discretion of the court, imprisonment for five years at hard labor, with a fine of not less than \$10,000, and perpetual disqualification for office under the United States.

Treason  
under the  
constitution

#### GENERAL REFERENCES

- Ashley, R. L., *The American Federal State* (1903), pp. 212-218, 270, 278, 280, 309.  
 Black, H. C., *Constitutional Law* (1897), pp. 207-219, 600-603.  
 Cooley, Thos. M., *Constitutional Law* (1898), pp. 88-89, 94-97, 104.  
 Hart, A. B., *Actual Government* (1903), pp. 16-21, 492-496, 578.  
 James, J. A., and Sanford, A. H., *Government in State and Nation* (1903), pp. 222-232.  
 McClain, E., *Constitutional Law* (1905), pp. 92-99, 173-181.  
 Pomeroy, J. N., *Constitutional Law* (1888), secs. 385-407, 413-440.  
 Story, Joseph, *Commentaries on the Constitution* (5th ed., 1905), secs. 1102-1115, 1151-1167, 1295-1301.  
 Tucker, J. R., *The Constitution of the United States* (1899), II, pp. 558-565, 572-573, 616-624.

## QUESTIONS AND EXERCISES

1. Describe fully the Alien and Sedition laws. What were the political results of these measures?
2. Should our present requirements for naturalization be increased? Give reasons.
3. Can persons of all races become naturalized?
4. How may an American citizen lose his citizenship?
5. When the father of a family becomes naturalized, what is the status of his children of foreign birth? Of those born in the United States?
6. Give arguments for and against a federal bankruptcy law.
7. What recent change has been made in the term for which copyrights are granted? Why do foreign authors complain of our copyright law?
8. Name five of the greatest inventions patented by Americans.
9. What arguments can you give for and against the establishment by federal law of the metric system of weights and measures?
10. How may a trade-mark be protected?
11. Give historical examples of treason against the United States. What punishment was imposed?
12. Name several crimes against federal law. What court has jurisdiction over these offenses?



## CHAPTER XXIX

### POLITICAL PARTIES

389. **Political Parties in our Government.** In the United States political parties are the great motive force by which the machinery of government is moved. Federal and State constitutions and statutes form the legal foundation of government; but even the provisions of the written constitution have been profoundly modified through the action of party organizations. In both legislation and administration, the will of the people is generally expressed, however crudely, through the agency of political parties. Hence some knowledge of party history and organization is essential to a clear understanding of our institutions and government; for broadly speaking, it is by the parties that the business of government is conducted, and it is largely owing to their influence that our political institutions have assumed their present form.

Motive  
power of  
government

Although the great body of Northern Democrats were staunchly loyal to the Union, their party was disrupted by the Civil War, the Republicans remaining in uninterrupted control of the government from 1860 to 1884. Until 1880 the parties were divided principally over issues arising from the Civil War, especially the question of reconstruction. From 1880 to 1892, the tariff question was the prominent issue, the Republicans favoring a protective tariff, and the Democrats a tariff for revenue only. From 1892 to 1900, the silver question was the all-absorbing issue, the Republicans favoring gold monometallism, the Democrats bimetallism at the ratio of 16 to 1. Since 1898, the so-called policy of imperialism, as well as such subjects as the control of corporations, the

Parties  
since 1860

establishment of postal savings-banks, the taxation of incomes, the conservation of natural resources, and the revision of tariff rates have received considerable attention in party platforms.

**390. Functions of Parties.** Four principal functions are performed by parties in carrying on the work of government. (1) Parties afford a means of crystallizing and unifying public sentiment upon the questions of the day.<sup>1</sup> The men united in a party are usually in substantial agreement upon certain policies, and by the adoption of a party platform these principles are placed before the voters for approval or rejection. (2) Parties supply the machinery by which the great majority of elective officers are nominated, thereby enabling the party voter to cast his ballot for candidates of his own political faith. (3) They are the agencies by which political campaigns are conducted, the management of which is entrusted to various party committees. (4) Parties provide an agency for the control of executive and legislative policies and agents. Under our system of distributing powers among the several departments of government, parties afford a valuable means of unifying and harmonizing the legislative and executive branches. If a party secures control of both these departments, it thereby becomes morally responsible for carrying out the policies outlined in its platform. Hence, although executive and legislative officers possess independent powers under the constitution, they must work in harmony to carry out the policies of the political party to which they owe a common allegiance.

**391. Organization of Parties.** The two chief instruments in the management of parties are the party convention and the standing committee. Although it represents the supreme authority of the party, the convention is only a temporary body, and hence a more

Conventions  
and party  
committees

<sup>1</sup> "The true office of the elaborate apparatus used to work up popular excitement over party issues is to energize the mass of citizenship into political activity." — Ford, H. J., *The Rise and Growth of American Politics*, p. 305.



permanent agency is needed to carry on the everyday business of party management. Accordingly the convention elects standing committees — national, State, and local — which manage party affairs until the assembling of the succeeding convention. Such matters as the nomination of candidates and the formulation of party platforms are reserved for the convention itself; while to the several party committees are entrusted the calling of conventions, the management of campaigns, the organization of political clubs, and the general control of the party's interests.

At the head of the permanent party organization is the national committee, consisting of one member from each State and territory. This committee is chosen The national committee every four years at the national convention, each State and territorial delegation being entitled to one representative. The national committee may appoint a smaller executive committee, which carries on the presidential campaign under the direction of the national chairman. Other important functions of the national committee are the choice of a place of meeting for the ensuing national convention, and the selection of its temporary chairman.<sup>1</sup>

Independent of the national committee, but acting in harmony with that body, is the State central or State executive committee. This is composed of representatives from each congressional or State senatorial State committees district, or of members chosen by the State convention, or elected by the several county conventions. The chief functions of the State committee are to fix the time and place for the meeting of the State convention, to arrange the preliminary work of that body, to wage the party's campaign in the State, and in general to advance the party's interests.

The local party committees include county, township,

<sup>1</sup> Another party committee national in character is the congressional committee, appointed at a joint or separate caucus of the members of each party in the Senate and House. This committee includes members from each State and territory which has representatives in either house. Its special function is to coöperate with the local committees during congressional campaigns, its efforts being directed especially toward carrying doubtful districts.

city, and sometimes even ward and precinct committees; and there is also a committee for each congressional district. Members of local committees are generally chosen either by the voters at a party primary, or by county or city conventions. The local committees issue the call for the party primary, and often determine the rules under which it is held. Hence they exercise important powers, since the local primaries form the basis of the entire nominating machinery.

**392. The Party Machine.** This hierarchy of committees is usually spoken of as the "machine" or "organization."

**Source of power** Much criticism is directed against the machine because too frequently it goes beyond its legitimate functions of serving the party, and seeks to perpetuate its own power by dictating nominations, thus indirectly controlling a large number of elective and appointive officers. In order to accomplish this result, the machine must control the primaries, since only in this way can delegates be elected who are favorable to the wishes of the organization. Hence local committees often make up a ticket or slate previous to the primary, and endeavor to secure the election of certain individuals as convention delegates. This usurpation of power is frequently successful, owing to the lack of interest taken by the ordinary voter in party management; and hence control of nominations and party policies is largely in the hands of committees which in theory are only the agencies for carrying out the will of the voters.

Within recent years there has been a marked tendency for political organizations to pass under the control of a single person. Owing to his superior political skill and sagacity, some leader often wins the title of "Boss" by establishing himself as the chief controlling factor in local or even State party affairs. Large cities have commonly been the most favorable fields for the Boss and for machine control generally, because of the numerous



offices and the frequent opportunities to secure illicit gain.<sup>1</sup> Sometimes the sphere of the Boss is larger than the city, including the entire State.

393. **Party Responsibility.** The great problem in American politics is to make the political party virtually as well as nominally responsible to its members. Too often the political prerogatives of the ordinary citizen are confined to choosing between candidates for office who have been nominated by the small group of politicians in control of each party. The right to choose between two candidates in whose nomination the voter has had nothing to say may be democratic government in form, but it is not in substance. Since the parties control the government, it is essential to representative rule that the parties themselves be effectually controlled by their members.

Unrepresentative  
nominations

Serious abuses on the part of the machine generally end in a revolt within the ranks of the party, many of whose members finally support opposing candidates as a rebuke to machine methods, or else form an organization within their own party with which to oppose the machine. Direct nominations constitute the most promising means of checking excessive control by the party organization; but up to the present time no remedy has been devised which will entirely prevent the evils resulting from the tendency of party organizations to dominate rather than to serve their party.<sup>2</sup>

Opposition  
to machine  
control

<sup>1</sup> Bryce enumerates the following conditions as tending to give rise to rings and bosses: (1) the existence of a spoils system. (2) Opportunities for illicit gains arising out of the possession of office. (3) The presence of a mass of ignorant and pliable voters. (4) The insufficient participation in politics of the good citizens. — Bryce, James, *The American Commonwealth*, II, p. 120.

<sup>2</sup> "The great need in American politics to-day is that young men of high ideals and resolute purposes for good government should devote themselves to political activity, standing up stoutly and constantly for honest government, high ideals in politics, and that active participation in political life by which better government is brought to pass." — Woodburn, J. A., *Political Parties and Party Problems in the United States*, p. 303.

## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), ch. vi.  
 ——— *Readings in American Government and Politics* (1910), ch. vi.  
 Bryce, James, *The American Commonwealth* (1907), II, chs. LIII-LVI.  
 Ford, H. J., *The Rise and Growth of American Politics* (1898).  
 Fuller, Robert H., *Government by the People* (1908), ch. xi.  
 Johnston, Alexander, *History of American Politics* (1902).  
 Macy, J., *Party Organization and Machinery* (1904).  
 ——— *Political Parties in the United States* (1900).  
 Merriam, Charles Edward, *The American Party System* (1922).  
 Munro, William B., *The Government of the United States* (1920), pp. 312-341, 473-488.  
 Woodburn, J. A., *Political Parties and Party Problems in the United States* (1909).

## QUESTIONS AND EXERCISES

1. Define a political party, and describe the functions which it performs.
2. Prepare a report upon the principles and leaders of the Federalist party.
3. Describe the principles of Jefferson and the Democratic-Republican party.
4. What were the political principles of the Whig party?
5. Give an account of the rise of the present Republican party.
6. Describe the political parties and issues in the campaign of 1860.
7. How many members compose the Democratic State committee in your commonwealth? The State committee of the Republican party? How are the members of each committee chosen?
8. Describe the work performed by the party machine. (Bryce, James, *The American Commonwealth*, II, pp. 90-96.)
9. Describe some of the abuses of party organization and methods.
10. What were the principal issues between the two parties at your last State election? Who were the leading candidates of each party? Results of the election?
11. Give the same facts with regard to your last municipal election.
12. In the choice of local officers, which is of greater importance to the voter — that a candidate belongs to a particular party, or that he possess a high degree of honesty and ability? Should party politics have any part in local elections?
13. Are members of your board of education chosen on a party ticket, or nominated by petition and chosen by ballots which contain no party emblems or names? Give arguments in favor of the latter method.
14. Answer the same question with regard to candidates for the judiciary in your State.
15. What are the arguments in favor of fewer elective offices and short ballots? (Kaye, P. L., *Readings*, pp. 384-391.)
16. In your State are candidates for office required to file a statement of their election expenses? What is the object of such a provision?
17. Report upon the methods of suppressing political corruption. (Kaye, P. L., *Readings*, pp. 513-525.)
18. Is there a corrupt practices act in your State? If so, give its chief provisions.



## CHAPTER XXX

### NOMINATIONS AND ELECTIONS

**394. Methods of Nomination.** Throughout the United States, candidates for office are commonly nominated either by the party primary or by a nominating convention. While other methods of nomination are sometimes employed (such as nomination by petition), the primary and the convention are the two chief agencies by which party nominations are made.

Primary  
and  
convention

**395. The Party Primary.** The primary, or primary election, is either a deliberative meeting or a virtual election held by the political partisans of a small area, such as a rural township, or a city ward or precinct. Generally, the primary performs a twofold function: (1) that of nominating candidates for local offices within its boundaries; and (2) of electing delegates to conventions which nominate candidates from larger areas, such as the city, or county, or congressional district.

Functions

Thus the primary is the foundation of the entire system of nominating machinery, since it directly nominates certain local officers, and indirectly — through delegate conventions — nominates all others. Even the great national conventions proceed from the local primaries; for they are composed of members chosen by State or congressional district conventions, the delegates to which have been elected at local primaries.

Importance

Recognizing the importance of party primaries in our system of popular rule, many States have passed laws which in effect make the primary a part of the machinery of government. Such laws commonly prescribe the qualifications of those who may participate,

Legal  
regulation of  
primaries

the time and place of holding the primary, its organization and general management. The object of such legislation is to secure to each party member his right to participate in the primaries and to have his vote fairly counted. In the absence of legal regulation, the primary is conducted in accordance with party rules and customs.

**396. Types of Primaries.** In New England and several States elsewhere, the primary (or caucus) is virtually a **Town-meeting type** town-meeting of the party voters. The call (issued by the local committee) requests the party members to assemble at a certain time and place for the purpose of nominating candidates for local offices, electing delegates to conventions, selecting local committees, and transacting other party business. This form of primary is adapted only to comparatively small districts, such as towns, wards, or thinly settled rural counties.

The second type of primary (which prevails generally throughout the United States) is in fact an election, the **Primary election** only important difference between it and the regular election being that the primary is confined to the voters of a single political party. The polls are open as on election day, and the person receiving the highest number of votes for any particular office is thereby nominated.

**397. Local Nominating Conventions.** A nominating convention is a meeting of delegates who have been chosen for the purpose of nominating candidates for certain **County conventions** offices, and transacting other party business, such as the appointment of committees and the adoption of a platform. Delegates to county conventions are ordinarily chosen at primaries held in the various townships or wards. County conventions nominate the candidates for the various county officers. Frequently they also elect delegates to the State convention, and choose the members of the county committee.

In municipal elections, party lines are often drawn almost as closely as in State or national elections, notwith-



standing the non-political character of most local business. The municipal officers elected by popular vote generally include the mayor, members of the **Municipal conventions** council and school board, treasurer, city solicitor, and street commissioner. These officials are sometimes nominated at municipal conventions composed of delegates chosen at party primaries in the various wards or election precincts of the city. But in many cities the candidates for municipal office are chosen directly at the primaries, each party voter casting his ballot for the candidates of his choice, those receiving a plurality becoming the party nominees. Nomination by petition is also permitted in many cities, especially for members of the board of education.

**398. Judicial and District Conventions.** For the election of judges of the county courts, the State is generally divided into districts which include several counties; and **Judicial nominations** candidates for these judgeships are ordinarily nominated in judicial conventions within each district.

For the choice of members of the legislature, many States are divided into senatorial and also into smaller representative or assembly districts; and legislative candidates are nominated by conventions composed **Legislative nominations** of delegates chosen at primaries in the townships or wards within the district. In other commonwealths, the county is taken as the basis of apportionment in one or both houses — each county being entitled to a certain number of senators or representatives; and in these States candidates for the legislature are generally nominated by the county convention.

**399. State Nominating Conventions.** The State convention ordinarily consists of several hundred delegates chosen by party voters either directly at the primaries, or indirectly through county or district **Officers nominated by State Conventions** conventions. The State convention nominates the officers elected by the people of the State at large, including the governor, lieutenant-governor, secretary of

State, treasurer, and in most commonwealths, an auditor, attorney-general, superintendent of public instruction, State engineer, surveyor, and judges of the supreme court.

The call for a State convention is issued by the State central committee of the party, and a copy is sent to the chairman of each local committee. The call sets forth the time and place of the convention, and the number of delegates to which each city, township, or county is entitled. Generally, representation of the different counties or municipalities is based (at least in part) upon the vote cast for the party candidates at the last State or national election.

On the appointed day, the convention organizes by electing a chairman, secretary, and other officers. Then follows a report of the committee on credentials, containing a statement of the number of delegates present, and rendering a decision concerning contested seats. The platform form is next read by the chairman of the committee on resolutions, and is ordinarily accepted without amendment.

The convention then takes up its most important work — the nomination of candidates. The chair appoints a committee of tellers to take charge of the balloting, whereupon nominations for the office of governor are declared in order. After the nominating speeches have been made, the balloting commences. When a candidate receives the number required for a choice, generally a majority of all votes cast, it is customary for one of the supporters of a defeated rival to move that his nomination be made unanimous. The convention then proceeds with the nomination of candidates for other State offices.

State conventions ordinarily select the members of the State committee to serve until the next convention, and in presidential years nominate the four delegates at large to the national convention.

400. Presidential Nominating Systems. Three methods



of nominating candidates for the Presidency have prevailed in the United States: (1) by congressional caucus, or meeting of the party members of the two houses of Congress (1800–1824); (2) by State legislatures, acting either in an official capacity or as a legislative caucus (1824–1832); (3) by national nominating conventions, composed of delegates chosen for the special purpose of nominating presidential candidates (1832 to the present time).

**401. The Call of National Conventions.** Each political party holds its national nominating convention in the summer of the year in which the presidential election occurs. The call is issued by the national party committee, which body determines the time and place for the convention. The call specifies the number of delegates to which each State is entitled, and how they shall be elected. The Democratic party allows each State twice as many delegates as it has electoral votes, each territory being also represented. By a recent rule of the Republican party, each State is to be represented in the national convention by four delegates-at-large, one delegate for each congressional district, and an additional delegate for each congressional district which in 1914 cast not less than 7500 votes for the Republican candidate for Congress.

**402. The Delegates.** A copy of the official call is sent to each State party committee, whereupon that committee calls a State convention for the purpose of nominating the four delegates at large from each State. The State committee also notifies the local committees in the different congressional districts throughout the commonwealth, and these call congressional district conventions to choose the two delegates to which each district is entitled. Delegates to both district and State conventions are chosen at local party primaries.

Long before the meeting of the convention, the names of various prominent men are suggested for the Presidency. Friends of the leading candidates or-

Representa-  
tion

Selection

Instruction  
of delegates

ganize in each commonwealth, and endeavor to influence State and district conventions to instruct delegates in favor of the candidate of their choice. Estimates are given out from time to time of the comparative strength of the several candidates, and the contest for delegates continues until all have been chosen. As a rule it is impossible to foretell with certainty who will be the actual nominee of the convention, since many State delegations are unpledged, while others are instructed in favor of local candidates who are unlikely to receive general support. After all the delegates have been chosen, the convention city itself becomes the seat of war. The supporters of the leading candidates are early in the field, opening their headquarters in the prominent hotels; and they endeavor by every political device to win the support of the delegates.

**403. Procedure in National Conventions.** It has become customary to hold the national conventions of the two great parties in immense auditoriums so as to accommodate ten or fifteen thousand spectators, in addition to nearly two thousand delegates and alternates. Local preparations are in charge of a committee of citizens of the convention city.

Toward noon on the day appointed in the official call, the convention is called to order by the chairman of the national committee. The proceedings are opened with prayer. The call is then read, after which the national committee reports a list of the temporary officers of the convention, consisting of a temporary chairman, secretary, clerks, sergeants-at-arms, and stenographers. This list is generally accepted by the convention without contest, whereupon the chairman of the national committee yields his place to the temporary chairman, who usually addresses the convention in a formal speech on the political situation.

A resolution is next adopted that the convention be governed by the rules of the preceding convention until other-



wise ordered. Motions are made and carried for the appointment of a committee on credentials, one on permanent organization, one on rules, and a committee on resolutions, each consisting of one member from each State and territory. Resolutions concerning contested seats are now presented to the convention, and referred without debate to the committee on credentials. The appointment of these committees ends the important business of the first session.

Appoint-  
ment of  
committees

When the convention assembles for the second session, the first business in regular order is the report of the committee on credentials. In deciding cases of contested seats, the committee on credentials gives each side an opportunity to present its claims, and then decides between them — generally in favor of the regular delegates (that is, those indorsed by the State and district committees). After the credentials committee has arrived at a decision concerning contested seats, its report, including a list (arranged by States) of all delegates entitled to seats, is generally accepted by the convention with little debate.

Report on  
credentials

The next business in order is the report of the committee on permanent organization, which consists of a list of the permanent officers of the convention. This report is ordinarily adopted as a matter of course, and a committee is appointed to escort the permanent chairman to the platform. On taking the chair, the permanent chairman delivers a “keynote” speech on the issues of the approaching campaign.

Permanent  
organization

The committee on rules then reports the order of business for the convention to follow, and its rules of procedure. Two rules of great importance are peculiar to Democratic conventions. The first of these is the rule requiring for the nomination of candidates two thirds of the whole number of votes in the convention. The second is the so-called unit rule, under which a majority

Rules

of each State delegation is allowed to cast the entire vote to which the State is entitled, even against the protest of a minority of the delegation.

While awaiting the report of the committee on resolutions, the convention disposes of miscellaneous business, such as the election of the national committee, and of the committee on notification. These committees ordinarily consist of one delegate from each State and territory, the members being designated by the respective delegations.

Miscellaneous  
business

About the third day, the committee on resolutions is ready to report the platform. This is a formal statement of the party's attitude upon the public questions of the day, and next to the nomination of candidates, is the most important part of the convention's work. The platform is usually adopted as read, although it sometimes occasions an exciting contest.

Platform

404. **The Nomination of Candidates.** Nominating proceedings are next in order, and these begin with the roll-call of States (arranged alphabetically) for the presentation of candidates for the presidential nomination. Eight or ten candidates are often nominated, since a State delegation frequently thus compliments some favorite son who has very little chance of securing general support. The presentation of names affords the opportunity for long-continued applause, which supposedly indicates the popularity of the respective candidates.

Roll-call for  
nominations

After the roll-call for nominations is completed, the convention proceeds to the first ballot. As the name of each State is called by the convention secretary, the chairman of the delegation arises and announces the vote of his State. Occasionally a candidate is nominated by acclamation, but often many ballots are necessary to decide the contest. If none of the chief candidates is successful on the first few ballots, it sometimes happens that a "dark horse" (a comparatively obscure man) finally re-

Balloting



ceives the nomination.<sup>1</sup> As soon as any candidate receives the number of votes necessary for a choice, it is customary for the supporters of the next highest candidate to move that the nomination be made unanimous, this motion being adopted amid wild enthusiasm.

After the pandemonium has subsided — sometimes after a recess, the convention proceeds in the same manner to nominate a candidate for the Vice-Presidency.

This nomination seldom receives the careful consideration it deserves, and it is often given to a man in the hope that he may be able to carry a doubtful State, or in order to placate a faction in the party which has been opposed to the presidential nominee.

Nominating  
a Vice-  
President

As soon as the candidates for President and Vice-President have been named, a motion is carried authorizing the national committee to fix the time and place of the next presidential convention. Provision is made for printing the proceedings, and resolutions of thanks are voted to the citizens of the city and to the various convention officers. The convention then adjourns *sine die*, and the campaign begins.

Final  
proceedings

**405. Presidential Electors.** Candidates for the two electors at large to which each State is entitled are nominated at the convention held for the nomination of State officers; or if there are no State officers to be nominated, by a State convention called expressly for this purpose. Generally the candidate for elector in each congressional district is nominated at the congressional district convention; but in some commonwealths a complete electoral ticket for the entire State is nominated by the State convention. As already pointed out, the presidential electors exercise no discretion in casting their votes, but simply register the choice of the national nominating convention.

Methods of  
nomination

<sup>1</sup> Notable instances are the nominations of Polk, Taylor, Pierce, Hayes, Garfield, and Benjamin Harrison.

**406. Direct Primary System.** The convention method of nominating candidates is now used in only one third of the States. Elsewhere it has been superseded by the **Elimination of convention** "direct primary" system. This plan abolishes the convention entirely by providing that voters at party primaries shall cast their ballots directly for their party's candidates — those individuals being nominated who receive a plurality of all votes cast. The great merit of this plan is that it eliminates the abuses of the convention system, especially machine control, and makes the party really responsible to its members.

At first used only for local officers, direct primaries have grown in favor until now, in addition to local candidates, State officers and federal Senators are often nominated in this manner. Complete state-wide systems of direct nominations now prevail in thirty-eight States. **Prevalence of system**

Eighteen States have also adopted presidential-preference primary laws. These provide that delegates to the national party conventions shall be selected directly by the voters; and in some cases the voters are also permitted to express their preference directly for one of the candidates for the presidential nomination.

**407. Nomination by Petition.** Another method which likewise does away with the convention is that of nomination by petition, or by nomination papers. This **Characteristics** plan is employed in Great Britain, and is a characteristic feature of the original form of the Australian system. In this country it has been used especially for the nomination of members of boards of education, and other non-partisan candidates. Under this plan, a candidate may be nominated by filing with the election officers a petition, signed by the requisite number of voters, who are usually required to pledge that they will support the candidate named in the petition. The great merit of nomination by petition is that it protects the independent voter who can-





### VOTERS WAITING AT THE POLLS

In many cities and towns, conveniently located shops and offices are chosen as voting places. Others have specially constructed "election-booths," and still others hold elections in school houses, town-halls, etc.



### CASTING THE BALLOT

The election officers are about to check off the voter's name. His ballot may then be placed in the ballot-box.





The voter about to close the curtain. When not being voted on, the machine stands open. So long as the curtain remains open, the machine cannot be operated.

### DIRECTIONS FOR VOTING

1st. Move the handle at the top of the machine as it will go, and leave it there until the indicator and prepares the cylinder for recording a vote.

2nd. To vote a "Straight Ticket" over the name of the party, pull the handle down to the "Straight Ticket" position, and leave it there.

3rd. To vote on the question, pull the handle over the "Yes" or "No" of the question, and leave it there.

4th. When the handle is at the top to the left as far as it will go, the machine will record the vote.

PARTIES		1 FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT		2 FOR GOVERNOR		3 FOR LIEUTENANT GOVERNOR		4 FOR SECRETARY OF STATE		5 FOR AUDITOR OF STATE		6 FOR TREASURER OF STATE		7 FOR ATTORNEY GENERAL		8 FOR SHERIFF		9 FOR CONSTABLE		10 FOR VOTE FOR ANY TWO	
STRAIGHT DEMOCRATIC TICKET	1 A	2 A	3 A	4 A	5 A	6 A	7 A	8 A	9 A	10 A											
	EDWARD A. RALSTON	FRANK J. HALL	JAMES E. COX	WILLIAM B. BAILEY	JOHN L. LEBBERGET	EDWARD J. LOTZ	EDWARD A. SMITH	AGLETT P. RICH	JAMES P. PARSONS												
STRAIGHT REPUBLICAN TICKET	1 B	2 B	3 B	4 B	5 B	6 B	7 B	8 B	9 B	10 B											
	EDWARD A. RALSTON	FRANK J. HALL	JAMES E. COX	WILLIAM B. BAILEY	JOHN L. LEBBERGET	EDWARD J. LOTZ	EDWARD A. SMITH	AGLETT P. RICH	JAMES P. PARSONS												
STRAIGHT PROGRESSIVE TICKET	1 C	2 C	3 C	4 C	5 C	6 C	7 C	8 C	9 C	10 C											
	EDWARD A. RALSTON	FRANK J. HALL	JAMES E. COX	WILLIAM B. BAILEY	JOHN L. LEBBERGET	EDWARD J. LOTZ	EDWARD A. SMITH	AGLETT P. RICH	JAMES P. PARSONS												

## A VOTING MACHINE

Courtesy, Empire Voting Machine Company

The face of a voting machine, as it appears to the voter before he begins to vote. Votes are recorded by pulling down the levers.



not participate in party nominations. Moreover, this method makes it possible to oppose objectionable nominees by placing before the voters deserving candidates independently nominated.

408. Elections. National elections are held on the first Tuesday after the first Monday in November. The presidential election occurs every four years counting from 1900, while elections for Representatives are held biennially in even-numbered years. Shortly after the Civil War, acts were passed providing for a large degree of federal control of national elections; but this legislation has since been repealed, so that at the present time the several commonwealths have entire charge of national, as well as of State and local elections.

In most commonwealths, the governor and other State officers are chosen on the first Tuesday after the first Monday in November of the even-numbered years, the State election thus being held on the same day as the national election.<sup>1</sup> Economy of time, effort, and money is secured by having the election of State and federal officers on a single day; but the drawback to this plan is that State issues are likely to be subordinated to national questions.

In several commonwealths an effort has been made to separate local from State and national elections by holding the local elections at a special time, usually in the spring, or else biennially in the odd-numbered years. The object of this separation is to have local questions decided upon their merits apart from other issues.

409. Qualifications for Voting. Under our form of government, the regulation of the voting privilege is left entirely to the States, so long as they do not restrict the right to vote on account of race, color, or previous condition of servitude.<sup>2</sup> In most commonwealths

<sup>1</sup> State elections are held on a different day from national elections in seven States, namely: Arkansas, Georgia, Louisiana, Maine, Oregon, South Carolina, and Vermont.

<sup>2</sup> *Constitution*, Amendment xv. Congress has of course power to regulate the suffrage in the territories and in the District of Columbia.

there are few restrictions upon the suffrage, the general rule being that all citizens may vote if they have attained the age of twenty-one, and have resided in the State for a period varying from six months to two years — one year being the common requirement. In a few commonwealths, even aliens are permitted to vote, providing they have declared their intention of becoming citizens.

Criminals, the insane, paupers in institutions, and Indians not taxed are excluded from the suffrage in practically all of the States. In addition to these obvious necessary disqualifications, about twenty commonwealths have placed further restrictions upon the suffrage. Thirteen States, nearly all in the South or in New England, prescribe some form of educational test, either ability to read, or to read and write the English language. Several commonwealths, including Arkansas, South Carolina, Tennessee, and Virginia, require payment of a poll-tax as a prerequisite to voting. In several Western States the suffrage is withheld from the Chinese or persons of the Mongolian race;<sup>1</sup> and in Idaho and Utah, from polygamists. As a general rule persons entitled to vote may also hold office, provided they are of a certain prescribed age, and have lived in the State the requisite period.

**410. Woman Suffrage.** The granting of the ballot to women is an important result of the recent tendency to make our government more democratic. Like the initiative, the referendum, and the direct primary, this reform had its origin in the West. Wyoming gave women the right to vote when it was organized as a territory in 1869; Colorado, Idaho, and Utah took the same step between 1890 and 1893. During the years 1910 to 1917, woman suffrage was adopted by nine other States. Finally, the suffrage leaders turned their attention to Congress, and demanded that the national constitution be amended, giving woman the right to vote throughout the entire United States. After a long



contest, Congress in 1919 passed a resolution to this effect; and the proposed amendment — the Nineteenth — was ratified by the thirty-sixth State in August, 1920.

411. **Election Districts and Registration.** Two preliminaries are necessary before elections are held — districting and registration. Districting means dividing the civil divisions (counties and townships) of the State into small election districts or precincts containing as nearly as possible an equal number of voters. Districting

Each of these small subdivisions has a polling-place where voters are commonly required to register their names before the election, and where the ballots are cast on election day. The object of a preliminary registration is to identify individuals in communities where the residents are not personally known to one another; and to settle beforehand, if possible, any question as to a man's right to vote. Frequent registration is seldom required in rural districts where the voters are well acquainted with each other, while in the cities annual personal registration is generally necessary to prevent fraud. A voter registers by giving his name, place of residence, age, length of residence in the State, county, and election district, information concerning his nativity, and other material facts serving to establish his identity. Registration is often in charge of a board on which both great parties are equally represented. Registration

412. **The Conduct of Elections.** In addition to the registration of voters, a large amount of other preliminary work must be performed prior to election day. Nominations must be duly certified to the officers charged with the duty of printing the official ballots; polling-places must be designated and provided with ballots; and election officers appointed. Preliminary work

In the cities, general administration of the election laws is often in charge of an election board on which the two great parties are equally represented; elsewhere these duties are entrusted to an election commis- Holding the elections



# STATE ELECTION

## 1920

Tuesday, November 2

# OFFICIAL BALLOT

---

---

## CHATHAM

*W<sup>m</sup> M. Olin,*  
*Secretary of the Commonwealth.*

---

The Official Ballot for the State election in Massachusetts is printed on paper measuring, usually, about 14 by 10 inches. This is folded the long way, and has the date of the election, the name of the city or town, etc. (as above), printed on the first outside page. On the inside pages are arranged in columns the names and residences of the various candidates, with their party designations. For a facsimile of a portion of such a ballot, refer to the next page; in addition to the candidates shown, this particular ballot contained others for the following State offices: auditor, attorney-general, councilor, senator, representative; and for county commissioner, and county treasurer.



To vote for a Person, mark a Cross **X** in the Square at the right of the Party Name, or Political Designation. **X**

**GOVERNOR**.....Mark ONE.

_____	_____	of _____	.....	Republican	
_____	_____	of _____	.....	Prohibition	
_____	_____	of _____	.....	Socialist Labor	
_____	_____	of _____	.....	Democratic	
_____	_____	of _____	.....	Socialist	

**LIEUTENANT GOVERNOR**.....Mark ONE.

_____	_____	of _____	.....	Democratic	
_____	_____	of _____	.....	Republican	
_____	_____	of _____	.....	Socialist	
_____	_____	of _____	.....	Prohibition	
_____	_____	of _____	.....	Socialist Labor	

**SECRETARY**.....Mark ONE.

_____	_____	of _____	.....	Democratic	
_____	_____	of _____	.....	Socialist	
_____	_____	of _____	.....	Socialist Labor	
_____	_____	of _____	.....	Prohibition	
_____	_____	of _____	.....	Republican	

**TREASURER**.....Mark ONE.

_____	_____	of _____	.....	Democratic	
_____	_____	of _____	.....	Socialist	
_____	_____	of _____	.....	Socialist Labor	
_____	_____	of _____	.....	Prohibition	
_____	_____	of _____	.....	Republican	

sioner, or to the county or township clerk. Each polling-place is in charge of a certain number of inspectors or judges, aided by clerks, whose duty it is to open and close the polls, to permit only registered persons to vote, to receive and deposit the ballots, to count the votes, and to certify the returns to the proper officials (the board of elections or a similar authority). Each party is permitted to have "watchers" at every polling-place, who witness the casting and counting of the ballots, and challenge any person whom they believe not qualified to vote.

Every precaution is taken to secure a free and honest expression of the will of the voters. In many States, electioneering is forbidden within a certain distance (often one hundred feet) of the polling-places; watchers and challengers are permitted each party during the casting and counting of ballots; election officers are sworn not to attempt to influence any voter in casting his ballot; precautions are taken against "repeating," and against "stuffing" the ballot-box; identification of his ballot by any voter is prohibited;<sup>1</sup> candidates for office are sometimes required to file sworn statements of the amount expended by them or in their behalf for election purposes; and severe penalties are provided against bribery or intimidation of voters.

**413. Casting and counting the Ballots.** Throughout the Union, voting is by ballot, the polls being open during day-light, commonly from six A.M. to six P.M. All the States except two have adopted the Australian ballot in modified form.<sup>2</sup> This system provides for the exclusive use of an official ballot upon which the names of all candidates are printed (generally in parallel columns underneath the party names and emblems). Another form known as the "Massachusetts" ballot is used in fourteen

<sup>1</sup> In order to prevent him from selling his vote, and then distinguishing his ballot by tearing or marking it in such a way that the purchaser may know that he has kept his agreement.

<sup>2</sup> In ten commonwealths voting machines are used to a limited extent.



States. This omits the party emblem entirely, the names of the candidates being arranged in alphabetical order under the title of each office, followed by the name of the party; and the voter must have sufficient intelligence to read the ballot and select the candidates for whom he wishes to vote. Other States have a different plan, and print a separate ballot for each party or group of voters that has nominated candidates.

The voter receives one of these ballots from the election officials, and prepares it while alone in a little booth. He may vote a straight ticket by placing a cross-mark in the circle at the head of the party column, or a split or mixed ticket by placing a cross-mark opposite the name of each candidate for whom he wishes to vote. He then folds his ballot, and hands it to an election officer, who, in the presence of the other officers and of the voter, deposits it in the ballot-box.

As soon as the polls close, the ballots are counted, and the results certified to the proper county or city Election returns officers, who canvass the returns for the entire county or city, and issue certificates of election to the successful candidates. When State officers, presidential electors, or congressmen are voted for, the county authorities certify the result in their respective counties to State officers, who canvass the returns and issue the election certificates.

In most commonwealths a plurality only is necessary to an election; that is, a number of votes in excess of those received by any other candidate. A few Choice by plurality New England States require a majority of all votes cast, and where there are more than two candidates, this sometimes necessitates a second election. For the adoption of constitutional amendments a majority of all votes cast at the election is generally required.

## GENERAL REFERENCES

- Beard, C. A., *American Government and Politics* (1910), chs. VII, XXX.  
——— *Readings in American Government and Politics* (1910), ch. VII.  
Bryce, James, *The American Commonwealth* (1907), II, chs. LXVI, LXIX.  
Ford, H. J., *The Rise and Growth of American Politics* (1898), ch. XVI.  
Merriam, C. E., *Primary Elections* (1908).  
Reinsch, P. S., *Readings on the American Federal Government* (1909), ch. XVI.  
Stanwood, Edward, *A History of the Presidency* (1898).  
Woodburn, J. A., *Political Parties and Party Problems in the United States* (1909), chs. X, XII, XX.

## QUESTIONS AND EXERCISES

1. Distinguish between an inhabitant, a citizen, and a voter.
2. Are all citizens voters? In your State must a voter be a citizen?
3. What are the qualifications for voters in your State?
4. Examine the report of the last census and ascertain the total number of citizens and the number of voters in your city or county. How many votes are usually cast in your city and county elections?
5. In the last State election how many votes were cast in your county for governor? What number of voters failed to exercise the right of suffrage? Should there be a property qualification for voters? An educational qualification?
6. Give the chief arguments for and against woman's suffrage.
7. Is registration required in your State? In all communities, or in cities of a certain size? What are the advantages of registration?
8. How is your local board of registration chosen? Of how many members composed?
9. Give the time of holding local, State, and national elections in your commonwealth. What are the reasons for holding these at the same or different times?
10. State the advantages and disadvantages of frequent elections.
11. Which form of the Australian ballot is used in your State?
12. Where is the polling-place in your precinct? How many votes were cast there at the last election? During what hours were the polls open?
13. What body canvasses the vote in your city or county?
14. In your State what candidates are nominated by conventions? By direct primaries? By petition? What are the advantages of each method?
15. Describe the last State convention held by one of the political parties in your State, and compare its procedure with that described in Section 399.
16. Suggested readings on political rights and duties: Kaye, P. L., *Readings*, pp. 111-128.



## APPENDIX A

### THE CONSTITUTION OF THE UNITED STATES

#### PREAMBLE

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

#### ARTICLE I. LEGISLATIVE DEPARTMENT

##### *Section I. Congress in General*

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

##### *Section II. House of Representatives*

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. [Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.<sup>1</sup> The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island and Providence Plantations* one, *Connecticut* five, *New York* six, *New*

<sup>1</sup> Superseded by the fourteenth amendment.

*Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.]*

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

### *Section III. Senate*

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof,<sup>1</sup> for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

### *Section IV. Both Houses*

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the

<sup>1</sup> Superseded by the seventeenth amendment.



legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

### *Section V. The Houses Separately*

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

### *Section VI. Privileges and Disabilities of Members*

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

### *Section VII. Mode of Passing Laws*

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

#### *Section VIII. Powers granted to Congress*

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts by securing for limited-times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offenses against the law of nations;



11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

### *Section IX. Powers denied to the United States*

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement

and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign state.

### *Section X. Powers denied to the States*

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of the Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

## ARTICLE II. EXECUTIVE DEPARTMENT

### *Section I. President and Vice-President*

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the



presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.] <sup>1</sup>

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

8. Before he enter on the execution of his office he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the constitution of the United States.”

<sup>1</sup> Superseded by the twelfth amendment.

*Section II. Powers of the President*

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

*Section III. Duties of the President*

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

*Section IV. Impeachment*

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III. JUDICIAL DEPARTMENT

*Section I. United States Courts*

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the



supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

### *Section II. Jurisdiction of the United States Courts*

1. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.<sup>1</sup>

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

### *Section III. Treason*

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

## ARTICLE IV. THE STATES AND THE FEDERAL GOVERNMENT

### *Section I. State Records*

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which

<sup>1</sup> This clause has been amended. See Amendments, Article xi.

such acts, records, and proceedings shall be proved, and the effect thereof.

*Section II. Privileges of Citizens, etc.*

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.<sup>1</sup>

*Section III. New States and Territories*

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

*Section IV. Guarantees to the States*

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the Executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V. POWER OF AMENDMENT

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as

<sup>1</sup> This clause has been nullified by Amendment XIII, which abolishes slavery.



the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

#### ARTICLE VI. PUBLIC DEBT, SUPREMACY OF THE CONSTITUTION, OATH OF OFFICE, RELIGIOUS TEST

1. All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the Confederation.

2. This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### ARTICLE VII. RATIFICATION OF THE CONSTITUTION

The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord, one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

George Washington, President, and Deputy from VIRGINIA.

NEW HAMPSHIRE — John Langdon, Nicholas Gilman.

MASSACHUSETTS — Nathaniel Gorham, Rufus King.

CONNECTICUT — William Samuel Johnson, Roger Sherman.

NEW YORK — Alexander Hamilton.

NEW JERSEY — William Livingston, David Brearley, William Paterson, Jonathan Dayton.

PENNSYLVANIA — Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

DELAWARE — George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

MARYLAND — James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll.

VIRGINIA — John Blair, James Madison, Jr.

NORTH CAROLINA — William Blount, Richard Dobbs Spaight, Hugh Williamson.

SOUTH CAROLINA — John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

GEORGIA — William Few, Abraham Baldwin.

Attest: William Jackson, *Secretary*.

## AMENDMENTS<sup>1</sup>

### ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

### ARTICLE II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

### ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

### ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice

<sup>1</sup> The first ten amendments were proposed by Congress, September 25, 1789, and declared in force December 15, 1791.



put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

#### ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X

The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

#### ARTICLE XI <sup>1</sup>

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

#### ARTICLE XII <sup>2</sup>

1. The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they

<sup>1</sup> Proposed by Congress March 5, 1794, and declared in force January 8, 1798.

<sup>2</sup> Proposed by Congress December 12, 1803, and declared in force September 25, 1804.

shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

#### ARTICLE XIII <sup>1</sup>

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XIV <sup>2</sup>

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States

<sup>1</sup> Proposed by Congress February 1, 1865, and declared in force December 18, 1865.

<sup>2</sup> Proposed by Congress June 16, 1866, and declared in force July 28, 1868.



and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV <sup>1</sup>

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

<sup>1</sup> Proposed by Congress February 26, 1869, and declared in force March 30, 1870.

ARTICLE XVI <sup>1</sup>

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII <sup>2</sup>

1. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

2. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

3. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII <sup>3</sup>

1. After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States as provided in the Constitution within seven years from the date of submission hereof to the States by the Congress.

ARTICLE XIX <sup>4</sup>

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

2. Congress shall have power to enforce this article by appropriate legislation.

<sup>1</sup> Proposed by Congress July 12, 1909, and declared in force February 25, 1913.

<sup>2</sup> Proposed by Congress June 12, 1912, and declared in force April 8, 1913.

<sup>3</sup> Proposed by Congress December 17, 1917, and declared on January 29, 1919, to be in force on and after January 16, 1920.

<sup>4</sup> Proposed by Congress June 4, 1919, and declared in force August 26, 1920.



APPENDIX B

AREA, POPULATION, AND ELECTORAL VOTES  
OF THE STATES

STATE	Became Member of Union	Area Square Miles	POPULATION		Electoral Vote (Ap- portionment of 1911)
			1910	1920	
Alabama . . . . .	1819	51,098	2,138,093	2,348,174	12
Arizona . . . . .	1912	113,056	204,354	334,162	3
Arkansas . . . . .	1836	53,335	1,574,440	1,752,204	9
California . . . . .	1850	158,297	2,377,540	3,426,861	13
Colorado . . . . .	1875	103,948	799,024	939,629	6
Connecticut . . . . .	1788	4,965	1,114,756	1,380,631	7
Delaware . . . . .	1787	2,370	202,322	223,003	3
Florida . . . . .	1845	58,666	752,610	968,470	6
Georgia . . . . .	1788	59,265	2,609,121	2,895,832	14
Idaho . . . . .	1890	83,888	325,594	431,866	4
Illinois . . . . .	1818	56,665	5,638,591	6,485,280	29
Indiana . . . . .	1816	36,354	2,700,876	2,930,390	15
Iowa . . . . .	1846	56,147	2,224,771	2,404,021	13
Kansas . . . . .	1861	82,158	1,690,940	1,769,257	10
Kentucky . . . . .	1791	40,508	2,289,905	2,416,630	13
Louisiana . . . . .	1812	48,506	1,656,388	1,798,509	10
Maine . . . . .	1820	33,040	742,371	768,014	6
Maryland . . . . .	1788	12,327	1,295,346	1,449,661	3
Massachusetts . . . . .	1788	8,266	3,366,416	3,852,356	18
Michigan . . . . .	1837	57,980	2,810,173	3,668,412	15
Minnesota . . . . .	1858	84,682	2,075,708	2,387,125	12
Mississippi . . . . .	1817	46,865	1,707,114	1,790,618	10
Missouri . . . . .	1821	69,420	3,293,335	3,404,055	18
Montana . . . . .	1889	146,907	376,053	548,889	4
Nebraska . . . . .	1867	77,520	1,102,214	1,296,372	8
Nevada . . . . .	1864	110,690	81,875	77,407	3
New Hampshire . . . . .	1788	9,341	430,572	443,083	4
New Jersey . . . . .	1787	8,224	2,537,167	3,155,900	14
New Mexico . . . . .	1912	122,634	327,301	360,350	3
New York . . . . .	1788	49,204	9,113,614	10,385,227	45
North Carolina . . . . .	1789	52,426	2,206,287	2,559,123	12
North Dakota . . . . .	1889	70,837	577,056	646,872	5
Ohio . . . . .	1802	41,040	4,767,121	5,759,394	24
Oklahoma . . . . .	1907	70,057	1,657,155	2,028,283	10
Oregon . . . . .	1859	96,699	672,765	783,389	5
Pennsylvania . . . . .	1787	45,126	7,665,111	8,720,017	38
Rhode Island . . . . .	1790	1,248	542,610	604,397	5
South Carolina . . . . .	1788	30,089	1,515,400	1,683,724	9
South Dakota . . . . .	1889	77,615	583,888	636,547	5
Tennessee . . . . .	1796	42,022	2,184,780	2,337,885	12
Texas . . . . .	1845	265,806	3,806,542	4,663,228	20
Utah . . . . .	1894	84,000	373,351	449,396	4
Vermont . . . . .	1791	9,564	355,956	352,428	4
Virginia . . . . .	1788	42,627	2,061,612	2,309,187	12
Washington . . . . .	1889	69,127	1,141,090	1,356,621	7
West Virginia . . . . .	1863	24,170	1,221,119	1,463,701	8
Wisconsin . . . . .	1848	56,066	2,333,860	2,632,067	13
Wyoming . . . . .	1890	97,914	145,965	194,402	3
Total . . . . .		3,026,719	91,641,197	105,273,049	531

APPENDIX C

AREA AND POPULATION OF TERRITORIES  
AND INSULAR POSSESSIONS

TERRITORY	Date of Acquisition	Date of Organization	Area Square Miles	Popula <sup>a</sup> ion, 1920
Alaska . . . . .	1867	1868	590,884	54,899
District of Columbia . .		1791	70	437,571
Guam . . . . .	1899		210	13,275
Hawaii . . . . .	1898	1900	6,449	255,012
Panama Canal Zone . .	1904		436	22,858
Philippine Islands . . .	1899	1902	115,026	10,350,640
Porto Rico . . . . .	1899	1900	3,435	1,299,809
Tutuila Group, Samoa .	1900		77	8,056
Virgin Islands . . . .	1917		150	26,051
Total . . . . .			716,737	12,469,071

APPENDIX D

ILLUSTRATIVE MATERIAL FOR THE STUDY  
OF GOVERNMENT

PART I. LOCAL GOVERNMENTS. CHAPTERS I-III

1. A map of the pupil's State, showing the counties.
2. An enlarged map of the pupil's county, showing its subdivisions.
3. Reports of county and town or township officers.
4. Ballots used at county elections.
5. A collection of legal notices from the local papers.
6. Copies of the more common legal blanks (deeds, mortgages, etc.).
7. Town-warrants, tax-bills, and other town documents.
8. The State constitution and revised statutes.
9. The manual of the State legislature.
10. The city charter and ordinances.
11. A copy of the city manual for each pupil.
12. A map of the city showing ward lines and election precincts.
13. The city council calendar.
14. Copies of measures introduced into the council, and of ordinances published in the daily papers.
15. Reports of the several municipal departments and officers.
16. A declaration of taxable property and a tax-bill.
17. Copies of tally-sheets used at elections.
18. Copies of nomination petitions, if used.
19. Copies of the ballots used at municipal, State, and national elections.
20. A copy of the jury list.
21. A set of the forms used in civil and criminal actions.



## PART II. STATE GOVERNMENTS. CHAPTERS IV-XI

1. Copies of the constitution and revised statutes of the pupil's own State.
2. A collection of the constitutions of all the States. The most recent and complete is F. N. Thorpe's *The Federal and State Constitutions, Colonial Charters, and other Organic Laws* (1909).
3. A good text-book on the government of the pupil's own State, such as the Handbooks of American Government, edited by L. B. Evans.
4. The manual of the State legislature.
5. A volume of the laws made during a legislative session.
6. A volume of the reports of the Supreme Court.
7. A map of the pupil's State, showing the representative and senatorial election districts.
8. Copies of the ballots used at State and national elections.
9. Copies of bills which have been introduced into the legislature.
10. Copies of the calendar and the journal of each house of the legislature.

PART III. THE NATIONAL GOVERNMENT.  
CHAPTERS XII-XXX

1. A large political map of the United States, showing territorial acquisitions.
2. A good physiographic map of the United States.
3. Abstract of the Thirteenth Census, and the statistical atlas of the Thirteenth Census.
4. The Statistical Abstract of the United States.
5. The United States Revised Statutes.
6. Copies of the House Manual and the Senate Manual.
7. Latest copy of the Congressional Directory.
8. The Congressional Record.
9. Reports of the federal departments and bureaus, especially those of the Civil Service Commission, the Interstate Commerce Commission, the Commissioner of Education, the Commissioner of Immigration, the Monthly Summary of Commerce and Finance, the Year-Book of the Department of Agriculture, the Consular Reports, and the Labor Bulletins.
10. The Executive Register, published by the Government Printing Office.
11. Thorpe's *The Federal and State Constitutions*. This contains also the early charters and plans of Union: — colonial charters, New England Articles of Confederation, Albany Plan of Union, Declaration of Independence, Articles of Confederation.
12. Through the Superintendent of Documents, Washington, D.C., the federal government distributes at a nominal price thousands of publications of value to students of government. Price lists of these publications should be obtained from the Superintendent of Documents, and the pupils should be fully informed concerning the material thus available.

## APPENDIX E

## SELECTED REFERENCES ON AMERICAN GOVERNMENT

*Bibliographies and Outlines for the Study of Government*

- Brookings, W. D., and Ringwalt, R. C., *Briefs for Debate on Current Political, Economic, and Social Topics* (1896).  
 Channing, E., and Hart, A. B., *Guide to the Study of American History* (1896).  
 Hart, A. B., *Handbook of the History, Diplomacy, and Government of the United States* (1908).  
 ——— *Source Book of American History* (1899).  
*Municipal Affairs*, vol. v, no. 1 (1901), contains a classified list of books and articles on local government.  
 New England History Teachers' Association, *Outline for the Study of American Civil Government* (1910).  
 New York State Education Department, *Syllabus for Secondary Schools* (1910).

*Sources in American Government*

- Beard, C. A., *Readings in American Government and Politics* (1910).  
 Hart, A. B., *American History told by Contemporaries* (1906, 4 vols.).  
 Kaye, P. L., *Readings in Civil Government* (1910).  
 Macdonald, William, *Select Charters and other Documents illustrative of American History, 1606-1775* (1904).  
 ——— *Select Documents illustrative of the History of the United States, 1776-1861* (1898).  
 Macdonald, William, *Select Statutes and other Documents illustrative of American History, 1861-1898* (1903).  
 Reinsch, P. S., *Readings on American Federal Government* (1909).  
 Richardson, J. D., *A Compilation of the Messages and Papers of the Presidents, 1789-1897* (1896-1899, 10 vols.).  
 Thayer, J. B., *Cases on Constitutional Law; with Notes* (1895, 2 vols.).  
 Thorpe, F. N., *The Federal and State Constitutions* (1909, 7 vols.).

*Constitutional and Governmental Histories*

- Channing, Edward, *A Student's History of the United States* (1905).  
 Hart, A. B., ed., *Epochs of American History*, including Thwaites, R. G., *The Colonies*; Hart, A. B., *Formation of the Union*; Wilson, W., *Division and Reunion* (1897-1898, 3 vols.).  
 ——— *The American Nation; A History* (1907, 27 vols.).  
 Landon, J. S., *The Constitutional History and Government of the United States* (1905).  
 McMaster, J. B., *History of the People of the United States from the Revolution to the Civil War* (1901).  
 Schouler, James, *History of the United States of America under the Constitution* (1906, 6 vols.).  
 Sparks, E. E., *The United States of America* (1904, 2 vols.).  
 Thorpe, F. N., *Constitutional History of the United States, 1765-1895* (1901, 3 vols.).



*Constitutional Treatises on American Government*

- Black, H. C., *Handbook of American Constitutional Law* (1897).  
 Cooley, Thomas M., *Principles of Constitutional Law* (1898).  
 Kent, James, *Commentaries on American Law* (14th ed., 1896, 4 vols.).  
 McClain, E., *Constitutional Law in the United States* (1905).  
 Story, Joseph, *Commentaries on the Constitution of the United States* (5th ed., 1905, 2 vols.).  
 Tucker, John R., *The Constitution of the United States* (1899, 2 vols.).

*General Works on American Government*

- Ashley, R. L., *The American Federal State* (1903).  
 Beard, C. A., *American Government and Politics* (1910).  
 Bryce, James, *The American Commonwealth* (1907, 2 vols.).  
 Goodnow, F. J., *Comparative Administrative Law* (Student's Abridged ed., 1903).  
 Hart, A. B., *Actual Government* (1903).  
 Lalor, John J., *Cyclopdia of Political Science* (1899).  
 Schouler, James, *Constitutional Studies, State and Federal* (1904).  
 Willoughby, W. W., *The American Constitutional System* (1904).  
 Wilson, Woodrow, *The State* (1906).  
 Young, James D., *The New American Government and its Work* (1915).

*Rural Local Government*

- Fairlie, J. A., *Local Government in Counties, Towns, and Villages* (1906).  
 Howard, G. E., *Introduction to the Local Constitutional History of the United States* (1889).

*Municipal Government*

- Goodnow, Frank J., *City Government in the United States* (1904).  
 Fairlie, J. A., *Municipal Administration* (1901).  
 Rowe, L. S., *Problems of City Government* (1908).  
 Wilcox, Delos F., *The American City; A Problem in Democracy* (1904).  
 Zueblin, Charles, *American Municipal Progress* (1903).

*State Government*

- Baldwin, S. E., *The American Judiciary* (1905).  
 Bliss, W. D. P., and others, eds., *Cyclopdia of Social Reform* (1908).  
 Blackman, F. W., *Economics for High Schools* (1907).  
 Butler, Wilson R., *Government in the New England States* (1905).  
 Cooley, Thomas M., *Constitutional Limitations* (1890).  
 Dealey, J. Q., *Our State Constitutions* (1907).  
 Ely, R. T., *Taxation in American States and Cities* (1888).  
 Finley, J. H., and Sanderson, J. F., *The American Executive and Executive Methods* (1908).  
 Plehn, Carl, *Introduction to Public Finance* (1897).  
 Reinsch, P. S., *American Legislatures and Legislative Methods* (1907).  
 State Governments, Handbooks of, edited by Evans, L. B.: Government of New York, Morey, W. C. (1902); Government of Ohio, Siebert, W. H. (1904); Government of Illinois, Greene, E. B. (1904); Government of Maine, Macdonald, Wm. (1902).  
 Wright, Carroll D., *Outline of Practical Sociology* (1899).

*The Federal Government*

- Brewer, David J., *The United States Supreme Court* (1903).  
Dewey, D. R., *Financial History of the United States* (1903).  
Fairlie, J. A., *The National Administration of the United States of America* (1905).  
Follett, M. P., *The Speaker of the House of Representatives* (1904).  
Hamilton, Madison, and Jay, *The Federalist* (Lodge, H. C., ed., 1904).  
Harrison, B., *This Country of Ours* (1903).  
McConachie, L. G., *Congressional Committees* (1898).  
Rhodes, J. F., *The Presidential Office* (1903).  
Tiedemann, C. G., *The Unwritten Constitution of the United States* (1890).  
Various authors, *History-Making: The Story of a Great Nation* (1910).  
Willoughby, W. W., *Territories and Dependencies of the United States* (1905).  
Wilson, Woodrow, *Constitutional Government in the United States* (1908).  
Woodburn, J. A., *The American Republic and its Government* (1903).

*Political Parties and Elections*

- Dallinger, F. W., *Nominations for Elective Office in the United States* (1897).  
Ford, H. J., *The Rise and Growth of American Politics* (1898).  
Fuller, R. H., *Government by the People* (1908).  
Goodnow, F. J., *Politics and Administration* (1900).  
Johnston, Alexander, *History of American Politics* (1902).  
Macy, Jesse, *Party Organization and Machinery* (1904).  
Merriam, C. E., *Primary Elections* (1908).  
Stanwood, E., *History of the Presidency* (1904).  
Woodburn, J. A., *Political Parties and Party Problems in the United States* (1909).



# INDEX

*(References are to pages of text)*

- Adjournment of Congress, 161, 193.  
Adjutant-General, State, 62.  
Administrative departments, city, 25-26; State, 60-63; national, 198-208.  
Administrative law, 53, 66.  
Administrators, appointment of, 69.  
Admission of States, 44, 271-272.  
Agriculture, State department of, 62, 86; federal department of, 205-206.  
Alabama, 5, 49, 102, 157, 310.  
Alaska, 131, 154, 204, 263, 310; government of, 266-267.  
Aliens, 285-287.  
Allegheny, 35.  
Ambassadors, appointment and reception of, 191-192, 257; classes, term, salary, 257-258; duties and privileges, 258-259.  
Amendment process, under State constitutions, 44-46; under federal constitution, 127; analysis of federal amendments, 128-129.  
American Republics, Bureau of, 207.  
Annapolis Academy, the, 106, 203, 281.  
Annexations, territorial, 262-264.  
Anti-Trust Act of 1890, 252-253.  
    *See* Trusts.  
Appeals, in State courts, 68, 73; in federal courts, 213-214; federal circuit courts of appeals, 213.  
Appointment to office, municipal, 25-26; State, 58, 62-64; federal, 132, 187-192.  
Apportionment, for State legislatures, 48; for United States Representatives, 154-156.  
Appropriations, municipal, 20; State, 107-108; federal, 219-222.  
Arbitration, State boards of, 87.  
Arizona, 60, 155, 263, 267, 272, 310; former territorial government, 267-268.  
Arkansas, 309, 310.  
Army, United States, 276-280.  
Arrest, warrant for, 77.  
Articles of Confederation, 120, 264.  
Assessments, special, 20-21.  
Assessor, county, 5, 13; town, 4; township, 8, 10; city, 25.  
Attorney, 70; prosecuting (State), 4, 5, 12, 61-62, 70; federal district attorney, 189, 216.  
Attorney-General, State, 61-62, 70; federal, 201-202, 209, 216.  
Auditor, county, 5, 12; State, 61.  
Australian ballot, 312-315.  
Bail, 78.  
Balances, checks and, 43.  
Ballot, Australian, 312-315.  
Banking, State commissioner of, 62.  
Bankruptcy, 250, 287.  
Banks, State, 90, 235-236; national, 226, 236, 250; First United States Bank, 234; Second United States Bank, 235.  
Belligerents, 256.  
Bicameral legislature, 48, 146.  
Bill of Rights, State, 41; federal, 128.  
Bills, introduction of, in State legislature, 50-51; in Congress, 168.  
Bimetallism, 232-233.  
Boards, municipal, 26, 30, 31, 32; county, 4-5, 11, 13, 93; State, 63.  
Bond issues, municipal, 21; State, 117; national, 227.  
Borrowing power: of municipal governments, 21; of State governments, 117; of the national government, 226-228.  
"Boss," party, 296-297.  
Bridges, construction of, 93.  
Budget, preparation of federal, 221-222.  
Business taxes, 114-116.

- Cabinet, under parliamentary government, 199; in United States, 133, 198-199.
- Calendar, legislative, 168.
- California, 13, 18, 60, 63, 98, 99, 100, 157, 263, 266, 286, 310.
- Canals, 93-94.
- Candidates, for State office, 301-302; for local offices, 300-301; presidential candidates, 306-308. *See* Conventions and Primary.
- Capital, the national. *See* Washington, D.C.
- Capitation tax, 115.
- Caucus, nominations by, 299-300; legislative caucus, 164, *note* 1; 303.
- Cemetery trustees, 4.
- Census, bureau of, 206; apportionment after decennial census, 155.
- Certificates, gold and silver, 234.
- Chairman. *See* Committees, party.
- "Challenges," in selection of jury, 72.
- "Charge," of judge to jury, 73.
- Charities, administration of, and methods of poor relief, 33; cost of charities, 108.
- Charter, municipal, 18.
- Checks and balances, 43.
- Chicago, 26, 28, 35, 236.
- Child labor, 87.
- Chinese, exclusion of, 246; naturalization of, forbidden, 286, *note* 1; 310, *note* 3.
- Circuit court, State, 68. *See* Judiciary.
- Circuit courts of appeals, federal, 213.
- Citizenship, admission to, 285-286; privileges of, 286-287.
- City, definition of, 15; dual character of, 15; origin and development of, 15-16; problems of, 16-18; tenements, 17; city-planning, 17; incorporation and charters, 18; two leading types of city government, 18; powers of, 20-22; relation to State governments, 18; municipal home rule, 18; franchises, 22, 29; commission government, 26-27; city manager plan, 28; improvements in government of, 28-29; council, *see* Council; mayor, 23-25; administrative officials of, 25-26; taxation in, 20-21; civil service, 26, 28; police system, 30; fire protection, 30; health department, 31; education in, 31-32; parks and playgrounds, 32-33; poor relief in, 33; streets and sewers, 33-34; water-supply, 35; lighting, 35; street railways, 35-36; municipal monopolies, problem of, 36-37; municipal ownership, 37-38; courts, 67-68; concentration of immigrants in, 247-248.
- Civil actions, procedure in, 71-73.
- Civil service, municipal, 26, 28; State, 63-64; federal, 189-191.
- Civil War pensions. *See* Pensions.
- Claims, federal court of, 215.
- Clerk, county, 4, 5, 12; town, 4; township, 8, 10; of State courts, 13.
- Codification of the law, 66.
- Coinage, 231-233.
- Collectors, of local taxes, 4, 5, 12; of customs duties, 224; of excises or internal revenue taxes, 225.
- Colleges and universities, 98-100.
- Colonies, charters of, 40; executive in, 42; judiciary in, 42.
- Colorado, 13, 18, 60, 63, 263, 310.
- Columbia, District of, acquisition and government of, 268-269; courts of, 215.
- Columbus, Ohio, 146.
- Comity, interstate, 75.
- Commander-in-chief, power of President as, 184-186.
- Commerce, discussion of, in Constitutional Convention, 122; commercial powers under the constitution, 131, 243; navigation, 243-244; river and harbor improvements, 244-245; tariff duties, 223-224, 245-246; immigration, 246-248; postal system, 249; banks and currency, 249; weights and measures, 250; railway transportation, 250-252; Anti-Trust Acts, 252-254; Interstate Commerce Commission, 249-254; Federal Trade Commission, 207, 253; state regulations affecting commerce, 89-95.
- Commerce, Department of, 198, 206.



- Commission government, in cities, 26-27.
- Commissioner, county, 4, 11, 13, 93.
- Commissions, municipal boards or, 26, 30, 31, 32; State commissions, 63.
- Committee system, in city councils, 22; in State legislatures, 50-51; committee of the whole, 51; committees in Congress, 133, 166-168; conference committees, 169.
- Committees, party, 294-296.
- Common law, 67. *See* Law.
- Common pleas, court of, 68.
- Compromise type of local government, 6-13.
- Compromises of constitution, 121-123.
- Comptroller, city, 25; county, 12; State, 61.
- Compulsory education, 104.
- Concurrent powers, 137, 140.
- Confederation, Articles of, 120, 264.
- Conference committees, 169.
- Congress, United States, contrast with powers of State legislatures, 52; usages affecting, 133-134; sessions, 161; internal organization, 162-163; quorum, 163, 166; president of Senate, 163; Speaker of House, 164-166; committees of Congress, 166-168; process of legislation, 168-169; relations with President, 169-170, 193-195; limitation on powers of, 170-171; express powers of, 171; implied powers of, 171-172, compensation and privileges of members, 149. *See* Senate, House of Representatives.
- Congressional Government, 147.
- Congressional Library, 207.
- Congressional Record, the, 163.
- Connecticut, 5, 40, 59, 63, 69, 103, 121, 157, 264, 265, 310.
- Connecticut Compromise, 121.
- Conservation of natural resources, 85, 206.
- Constable, 4, 5, 8, 10, 13.
- Constitution, federal, call of convention to frame, 119; the framing of, 120-124; compromises of, 121-123; sources of, 124; ratification of, 125; contrasted with Articles of Confederation, 120; amendments of, 127-129; bill of rights, 128; interpretation of, 129-131; development of, through usage, 131-134; limitations imposed by, on State governments, 53; duties of State governor under, 59-60.
- Constitution, State, formation of, 40, 44-45; parts of, 40-41; bill of rights, 41; development of, 43-44; amendment of, 45-46; authority of, 46; interpretation of, 73; limitations of, upon legislative power, 53; individual rights under, 78-79.
- Constitutional Convention, the, 119-126.
- Constitutionality of legislation, power of State courts to decide, 73; power of federal courts, 123, 139, 216-217.
- Consuls, appointment and tenure, 259-280; classes and salary, 259; duties and privileges, 260.
- Contested elections, in Congress, 162.
- Contract labor, exclusion of, 246.
- Contracts, obligation of, 141.
- Convention of 1787, 119-126.
- Conventions, party, 294; local, 300-301; State, 301-302; national, 303-307.
- Conventions, State constitutional, 45.
- Copyrights, 287-288.
- Coroner, 5, 12.
- Corporations, characteristics and development of, 88-89; State regulation of, 89-92; method of organization, 89; banks, 90; insurance companies, 90; railroads, 90-91; industrial combinations and trusts, 90-92; quasi-public corporations, 36-37; taxation of, 114-115; federal control of, 250-254. *See* Banks, Railroads, Trusts.
- Council, city, size of, 19; number of chambers, 19; election of members, 19; powers of, 20-22; qualifications, term, and salary of members, 19; procedure in, 22; committees of, 22.
- Counterfeiting, 289-290.
- County, development of, in New England, 4; at the South, 5; pres-

- ent county government in New England, 4; origin of, in Central States, 6; officers of, 4-5, 11-13; commissioners, 4-5, 11; county court, 5.
- Court, definition of, 71. *See* Judiciary.
- Cremators, 34.
- Crime, definition of, 77; classification of, 77; repression of, 82; criminal procedure, 77-80; treatment of criminals, 81-82; federal power over crime, 289-291.
- Cuba, 264.
- Cumulative voting in Illinois, 49.
- Currency. *See* Finance, federal.
- Customs duties. *See* Tariff duties.
- Dayton, city-manager plan in, 28.
- Debate, in the House of Representatives, 168; in the Senate, 168-169.
- Debt, State and local, 117; national debt, 228. *See* Borrowing power.
- Defendant, in civil cases, 71-72; in criminal cases, 78-80.
- Delaware, 11, 69, 121, 125, 155, 157, 264, 310.
- Delegates, territorial, 154, 268, 271.
- Delinquent taxes, 114.
- Democratic party, 246, 293, 303, 305.
- Departments, federal, 198-207; relations with Congress, 170; State departments, 61-63.
- Dependencies. *See* Territories.
- Deposition, testimony by, 75.
- Des Moines, commission government in, 26, 27.
- Detroit, 35.
- Dilatory motions, 166.
- Diplomatic representatives. *See* Ambassadors, Foreign affairs.
- Direct legislation, 46, 54-55.
- Direct nominations. *See* Nominations.
- Direct taxes, 110, 226.
- Disease, suppression of. *See* Health, boards of.
- District attorneys, United States, 189, 216.
- District court, 211-213. *See* Judiciary, federal.
- District of Columbia, acquisition and government of, 268-269; courts of, 215.
- Districts, congressional, 155-156.
- Dollar, coinage of the, 232-233.
- Domain, public, 204-205, 264.
- Duties, tariff, as a form of tax, 223-224; as commercial regulations, 245-246; excises or internal revenue duties, 200, 224-225.
- Economic functions of State governments, 84-95.
- Education, county superintendent of, 5, 13; in cities, 16-17, 31-32; State supervision of, 89; State and local systems, 10-11, 96-104; federal aid to, 105-106; federal bureau of, 105, 203.
- Educational test for voters, 310.
- Eight-hour day, 87.
- Elastic clause, 130-131, 171-172.
- Elections, national, State, and local, 309, 311-315; separation of state and local, 28, 309; congressional, 158; presidential, 176-178; qualifications for voting, 176, 309-310.
- Electors, presidential, 174-177, 307.
- Electric lighting in cities, 35.
- Eleventh amendment, 128.
- Emancipation Proclamation, 185.
- Eminent domain, 21.
- Enabling act, 272.
- Engineer, State, 62.
- Envoys. *See* Ambassadors.
- Epidemics, prevention of. *See* Health, boards of.
- Equalization, boards of, 13, 112.
- Error, writs of, 68, 73.
- Evidence in civil cases, 72, 73; in criminal cases, 80.
- Excise taxes, 200, 224-225.
- Exclusive powers, 137, 140.
- Execution, writ of, 73.
- Executive Council, in Porto Rico, 270-271; in the Philippines, 271.
- Executive departments, federal, 198-207. *See* the several departments.
- Executive sessions, of State Senate, 151; of United States Senate, 151.
- Executive, State, in early period, 42; increased powers of, 43; election and term of, 57-58; qualifications and salary, 58; powers of, 52, 58-60; judicial control over, 74; duties of, under federal constitution,



- 59-60; contrast with President's powers, 57.  
 Expenditure. *See* Finance.  
 Experiment Stations, agricultural, 205.  
 Exports, duties on, forbidden, 245.  
 Express powers of federal government, 137-138, 171.  
 Extradition, 59-60.  
 Factory inspector, State, 62, 86-87; factory legislation, 87.  
 Federal government, 1; federal law, supremacy of, 138-139; federal powers, 137-138. *See* National Government.  
 Federal Reserve System, 239-241.  
 Federal Trade Commission, 207, 253.  
 Federalists, the, 125.  
 Felonies, 77.  
 "Filibustering" in Congress, 166, 168.  
 Finance, federal, powers of Congress over, 131; objects of expenditures, 220; control of expenditures, 219-222; revenues, 222-227; taxing power, 222-223; import duties, 223-224, 245-246; excise taxes, 200, 224-225; income taxes, 225; direct taxes, 110, 226; borrowing power, 226-228; money, 231-239, 249; banking system, 234-236; national debt, 227-228; government paper money, 237-239; independent treasury system, 236; federal reserve system, 239-241; pensions, 204, 282-283.  
 Finance, local, powers of city council over, 20-21; taxing power of town meeting, 3-4, 8; of county commissioners, 11; general property tax, 111-114; license and franchise taxes, 21, 115-116.  
 Finance, State, expenditures, 107-108; revenues, 109-110; school revenues, 104-105; classification of taxes, 110; general property tax, 111-114; other taxes, 114-116; reforms in taxation, 116; State and local debts, 117.  
 Fire department, in cities, 30.  
 Fire-marshal, State, 62.  
 Fish and game laws, 85-86.  
 Florida, 69, 102, 263, 310.  
 Food and dairy commissioner, 62.  
 Food products, inspection of, 31.  
 Foreign affairs, 191-193, 256-260.  
 Forestry, scientific, 85, 206.  
 Fourteenth amendment, 129.  
 Franchise, the elective. *See* Suffrage.  
 Franchises, municipal, 22, 29, 36.  
 Free coinage, 232-233; free silver, 232-233.  
 Free Trade. *See* Tariff duties.  
 Full faith and credit clause, 144.  
 Gadsen Purchase, the, 131, 263.  
 Galveston, commission government in, 26.  
 Game laws, 85-86.  
 Garbage disposal, 34.  
 General property tax, 111-114.  
 General staff, the, 201.  
 Geologist, State, 62.  
 Georgia, 42, 49, 102, 309.  
 Gerrymander, 156-157.  
 Gold, coinage of, 232-233.  
 Government, distribution of powers of, 1; checks and balances in, 43; rural, 1-13; municipal, 15-38; State, 40-117; federal, 119-315. *See* States, Local government, National government.  
 Governor. *See* Executive, State.  
 Grand jury, 67, 77-78.  
 Grand Rapids, 28, 35.  
 Greenbacks, 234, 237, 239.  
 Guam, 263, 270.  
 Guardians, appointment of, 69.  
 Habeas corpus, writ of, 78, 184, 216.  
 Hamilton, Alexander, 119.  
 Harbors, improvement of, 244-245.  
 Hawaii, 154, 263, 286; government of, 270.  
 Health, county board of, 13; city department of, 31; State boards of, 31.  
 High schools, 98.  
 Highways, public, 92-93; overseers of, 4, 5, 8, 10.  
 Home rule, municipal, 18.  
 Homestead Act, 204.  
 House of Representatives, (federal) residence of members, 133, 159; apportionment, 154-155; gerrymander, 156; elections to, 158; term and qualifications of mem-

- bers, 158-159; rights and privileges of members, 159; special powers of the House, 159; Speaker of, 133, 164-166; debate in, 168; committees of, 133, 166-168; committee on rules, 166. *See* Congress, United States.
- House of Representatives (in State governments). *See* Legislature, State.
- Idaho, 60, 310.
- Illinois, 8, 9, 11, 49, 63, 68, 100, 186, 264, 310.
- Immigration, 246-248; State commissioner of, 62.
- Impeachment, State process of, 60; federal process of, 151-152, 170, 195.
- Imperialism, issue of, in American politics, 293.
- Implied powers, of federal government, 138, 171-172.
- Import duties, 223-224, 245-246.
- Inauguration, presidential, 178-179.
- Income tax, State, 115; federal, 225.
- Incorporation, of cities, 18; of business corporations, 89.
- Independent voting, 297, 308-309.
- Indeterminate sentence, 81.
- Indian affairs, 204.
- Indiana, 8, 9, 11, 59, 99, 101, 264, 310.
- Indictment, 62, 78.
- Individual rights, protection of, 41, 128, 141.
- Inferior officers, of federal government, 187-191.
- Information, 62, 78.
- Inheritance tax, State, 114.
- Initiative, in State government, 46, 55.
- Injunction, writ of, 75.
- Insular territories. *See* Territories.
- Insurance, regulation of, 90; State commissioner of, 62.
- Intention, declaration of, 285.
- Interior, Department of, 203-205.
- Internal improvements, 244-245.
- Internal revenue duties, 200, 224-225; commissioner of, 224.
- International law, offenses against, 289-290.
- International relations, 191-193, 256-260.
- Interpretation, constitutional. *See* Constitutionality of legislation.
- Interstate commerce. *See* Commerce.
- Interstate Commerce Commission, 207, 251-252; Federal Trade Commission, 207, 253.
- Interstate relations, 143-145.
- Intervention, federal, 185-186.
- Inventions, patents for, 203, 288.
- Iowa, 8, 9, 11, 310.
- Irrigation, 205.
- Isthmian Canal, the, 245, 264, 267.
- Jails, 81.
- Japanese laborers, exclusion of, 246.
- Johnson, Andrew, 152.
- Journals, legislative: State, 51; congressional, 162-163.
- Judges, county, 5, 12; police, in cities, 25; State judges, choice and tenure of, 69; salary and qualifications of, 70; duties of, 73-74; federal, *see* Judiciary, federal.
- Judiciary, State, in early period, 42; inferior courts, 67; courts of general original jurisdiction, 68; courts of last resort, 68; special State courts, 68-69; probate courts, 69; selection, tenure, qualifications, and salary of judges, 69-70; subordinate officers of courts, 70; procedure in civil cases, 71-73; power to decide upon constitutionality of legislation, 73-74; control of executive officials, 74-75; relation to federal courts, 75; interstate judicial relations, 75; writs of injunction and mandamus, 74-75.
- Judiciary, federal, relation to State courts, 75; limitations of power by eleventh amendment, 128; establishment and organization of, 209; jurisdiction of, 210-211; appointment, term, and compensation of judges, 209-210; district courts, 209, 212-213; circuit courts of appeals, 209, 213; Supreme Court, 209, 213-214; special courts, 215; territorial courts, 215; interpretation of law by, 215-217; power to



- decide constitutionality of legislation, 123, 216-217.
- Jurisdiction, original and appellate, 68.
- Jury, petit, 72-73, 79-80; grand jury, 67, 77-78.
- Justice, Department of, 198, 201-202.
- Justices of the peace, 5, 8, 10, 13; mayor's powers as, 25; justices' courts, 67.
- Juvenile courts, 82.
- Kansas, 8, 9, 11, 60, 310.
- Kentucky, 68, 240, 266, 310.
- Labor, State legislation concerning, 86-87; Department of Labor, 206-207.
- Lands, public, of State governments, 84-85; of federal government, 204-205, 269-270.
- Lands and forests, State commissioner of, 62.
- Law, common, 67; private, 53; administrative, 53; our system of, 66-67; enforcement of, 12, 59, 184-186; civil procedure, 71-73; criminal procedure, 78-80; martial law, 184, 282; international law, 289-290.
- Legislation, federal. *See* Congress.
- Legislation, State, process of, 50-52; special, for cities, 18; governor's veto upon, 52; scope of, 52-53; limitations upon, 53-54; unconstitutional, 73-74.
- Legislature, municipal. *See* Council.
- Legislature, State: early period, 41-42; proposal of constitutional amendments by, 45; two houses of, 48; election districts for, 48; minority representation in, 48; members, qualifications, term, and salary, 49; privileges of members, 50; sessions of, 49-50; process of legislation, 50-52; committees of, 50; journal, 50; powers of, 52-53; limitations upon powers, 44, 53-54; governor's veto, 52; relation to governor, 59.
- Liberal construction, 130-131, 171-172.
- Libraries, city, 32; State librarian, 62.
- License taxes, 21, 115.
- Lieutenant-Governor, 50, 60-61.
- Lighting, public, in cities, 35.
- Lincoln, Abraham, 131.
- Loans. *See* Borrowing power.
- Local governments, relation of, to State governments, 1-2; centralized and decentralized systems of, 2; dual character of, 2, 15; classification of, 2.
- Local government, municipal. *See* City.
- Local government, rural, 1-13; present system of, in New England, 3-4; at the South, 5; in the Central and Western States, 6-13; town-ship-county systems of, 6-10; functions of, 4-5, 7-13.
- Los Angeles, 28.
- Louisiana, 5, 60, 68, 102, 131, 157, 186, 262, 309, 310.
- Louisiana Purchase, the, 131, 262.
- McCulloch v. Maryland, 235.
- Machine, the party, 296-297.
- Madison, James, 119, 120.
- Mail matter. *See* Postal service.
- Maine, 69, 99, 100, 101, 157, 158, 266, 309, 310.
- Mandamus, 62, 74.
- Manual training, 97.
- Marque and reprisal, letters of, 276.
- Marshals, federal, 187, 189, 216.
- Martial law, 184, 282.
- Maryland, 11, 98, 102, 264, 268.
- Massachusetts, 26, 28, 30, 40, 48, 49, 63, 69, 82, 98, 101, 103, 115, 157, 235, 264, 265, 310.
- Mayor, election, term, and salary, 23; powers, legislative, administrative, and judicial, 23-25; the "responsible" mayor, 24.
- Message, mayor's, 23; governor's, 59; President's, 193-194.
- Metric system, 289.
- Merit system. *See* Civil Service.
- Mexican cessions, 263.
- Mexican War, 131.
- Michigan, 8, 9, 11, 18, 60, 82, 99, 264, 310.
- Military Academy, United States, 106, 201, 278-279.
- Military functions, of federal government, 275-283; military officers,

- 201, 278-279; militia, 12, 59, 184-186, 279-280; navy, 203, 280-282; pensions, 204, 282-283; military sites, 269.
- Military powers, of sheriff, 12; of mayor, 25; of governor, 59; of President, 184-186.
- Militia, 12, 59, 184-186, 279-280.
- Milwaukee, 26.
- Ministers, foreign. *See* Ambassadors.
- Minnesota, 8, 9, 11, 18, 98, 100, 310.
- Minority representation, 48.
- Misdemeanors, 77.
- Mississippi, 49, 69, 102, 115, 157, 310.
- Mississippi River, improvement of, 245.
- Missouri, 8, 9, 13, 18, 68, 310.
- Money, 231-239, 249. *See* Finance, federal.
- Monometallism, 231-233.
- Monopolies, municipal, 36-37; State control of, 90-91; capitalistic, 92; federal control of, 250-254.
- Montana, 310.
- Morris, Gouverneur, 124.
- Mortgage tax, 114.
- Municipality. *See* City.
- National banks, 226, 236.
- National committees, of political parties, 294-296, 303.
- National conventions, call, 303; procedure in, 304-307.
- National government, sphere of activity, 1; relation to States, 136-145; limitations on powers of, 128, 140. *See* Congress, President, Judiciary, Government (federal), Executive departments, etc.
- National Guard. *See* Militia.
- Natural resources, preservation of, 85, 206.
- Naturalization, 285-287.
- Naval Academy, United States, 106, 203, 281.
- Navigation, 93-94, 243-245.
- Navy, Department of, 203, 280-281.
- Nebraska, 6, 8, 9, 11, 100, 310.
- Neutrality, offenses against, 290.
- Nevada, 13, 60, 100, 146, 155, 175, 310.
- New England, town government of. *See* Towns.
- New Hampshire, 5, 40, 45, 69, 101, 125, 152, 157, 310.
- New Jersey, 8, 11, 33, 40, 49, 59, 63, 68, 69, 101, 120, 121, 123, 264, 310.
- New Jersey plan, in Constitutional Convention, 120, 123.
- New Mexico, 263, 267, 272, 286, 310; former territorial government, 267-268.
- New Orleans, 26, 28.
- New York City, 125, 236.
- New York (State), 6, 8, 9, 11, 26, 28, 30, 49, 63, 68, 84, 85, 103, 114, 125, 144, 146, 175, 264, 265, 310.
- Nominations, methods of, 299; local, 299-301; State, 301-302; presidential, 303-307; direct, 297, 308; by petition, 299, 308-309.
- North Carolina, 5, 43, 52, 59, 102, 115, 125, 157, 310.
- North Dakota, 8, 9, 11, 13, 60, 310.
- Northwest Territory, history of, 264-266.
- Notes, United States, 237-239; national bank notes, 236; federal reserve notes, 239-240; State bank notes, 235-236.
- Oath of office, presidential, 178.
- Officers, State: elective, 57-62; appointive, 63-64; federal, appointive, 132, 186-191.
- Ohio, 8, 9, 11, 18, 26, 28, 30, 63, 68, 82, 105, 240, 264, 310.
- Oklahoma, 18, 115, 310.
- Ordinance of 1784, 265; Ordinance of 1785, 6; Ordinance of 1787, 265-266.
- Ordinances, municipal, 22-23.
- Oregon, 13, 18, 46, 55, 60, 158, 263, 309, 310.
- Overseers of highways, 4, 5, 8, 10, 93.
- Overseers of the poor, 4, 5, 9, 10.
- Panama Canal, 245, 264, 267.
- Paper money. *See* Notes.
- Pardons, governor's power over, 59; President's power over, 195.
- Parks, city, 32-33.
- Parliamentary government, 147.
- Parties, political, functions of, 293-294; organization of, 294-296; party issues since 1860, 293; party



- platforms, 302, 306. *See* Conventions, party.
- Party system, influence of, upon government, 132-134; upon election of President, 132, 177-178.
- Patents, 203, 288.
- Patronage, federal, 132, 189-191.
- Paving, in cities, 34.
- Penitentiaries, 81.
- Pennsylvania, 8, 9, 11, 42, 68, 69, 84, 103, 144, 240.
- Pensions, military, 204, 282-283.
- Personal property taxes, 111-114, 116.
- Petition, nomination by, 299, 308-309.
- Philadelphia, 28, 236.
- Philippines, 154, 263, 286; government of, 271.
- Piracy, 290.
- Plaintiff, in civil cases, 71-72.
- Platform, party. *See* Parties, political.
- Playgrounds, municipal, 32-33.
- Pleadings, in civil cases, 72.
- "Pocket-veto," by the governor, 52; by the President, 194.
- Police administration in cities, 30, 67.
- Police power, of city council, 20.
- Politics. *See* Parties.
- Poll tax, 115.
- Polygamy, 272.
- Pools, railway, 91, 250-252.
- Poor, overseers of, 4, 5, 9, 10, 11; poor relief in cities, 33.
- Popular election of Senators, 148.
- Porto Rico, 154, 263, 286; government of, 270-271.
- Posse comitatus, 12.
- Postal savings banks, 203.
- Post Office Department, 202-203; postal system, 249.
- Powers, division of, between federal and State governments, 1, 136-137; between State and local governments, 1; checks and balances, 43.
- President, inauguration of, 125; political usages affecting, 132-133, 177-178; relations of, to Congress, 169-170; election of, 174-178; term, salary, and qualifications of, 179-180; military powers of, 184-186; diplomatic powers of, 191-193; legislative powers of, 193-195; judicial powers of, 195-196; veto power, 169, 194; powers of appointment and removal, 186-191; nomination of candidates for, 303-307; succession to Presidency, 180-181; electors, presidential, 174-177, 307.
- President pro tempore of Senate, 163-164.
- Previous question, in House of Representatives, 168.
- Primary, party, 299-300.
- Printing, State superintendent of, 62; federal printing-office, 207.
- Prisons and prison methods, 81.
- Private law, 53. *See* Law.
- Private rights, under federal constitution, 128, 140.
- Privateering, 276.
- Privileges and immunities of citizens, 143-144.
- Privileges, of States in the Union, 141-142.
- Prize courts, 276.
- Probate courts, 12, 69.
- Probation officers, 82.
- Procedure, civil, 71-73; criminal, 77-80.
- Procedure, in city councils, 22; in State legislatures, 49-52; in Congress, 168-169.
- Proclamations, presidential, 184, 193.
- Progressive taxation, 115.
- Prohibitions, upon State governments, 141; upon federal government, 128, 140; upon Congress, 270-271.
- Property, protection of, 71.
- Proportional representation, 48.
- Prosecution of criminals. *See* Crime.
- Protection. *See* Tariff duties.
- Public domain, 204-205, 264.
- Public works, State superintendent of, 63, 94.
- Qualifications for suffrage, 49, 287, 309-311.
- Quarantine, 249.
- Quartermaster-General, 201.
- Quorum, in State legislature, 51; in Congress, 163, 166.
- Quo warranto, 62.

- Railroads, State regulation of, 90-91, 251; federal regulation of, 251-253.
- Railways, street, 35-36.
- Rates, railway. *See* Railroads.
- Real estate, tax on, 111-114.
- Recall, 27, 60.
- Reclamation service, 205.
- Reconstruction, theories of, 273; reconstruction amendments, 129.
- Recorder, county, 5, 13.
- Recreation, in cities, 32-33.
- Referendum, State, 46, 54-55.
- Reformatories, 82.
- Register of deeds. *See* Recorder.
- Registration, 311.
- Removal, governor's power of, 58; President's power of, 188-189.
- Representatives, House of. *See* House of Representatives.
- Reprieve, 59, 196.
- Republican party, policies of, 293.
- Requisition, governor's power to issue writs of, 59-60.
- Reservations, Indian, 270.
- Reserve system, federal, 239-241.
- Reserves, forest, 85, 206.
- Responsibility, official, of mayor, 24-25, 28; of governor, 57; of President, 183-188, 191-192, 193-195.
- Resumption of specie payments, 239.
- Revenues. *See* Finance.
- Rhode Island, 40, 49, 69, 125, 186, 264.
- "Riders" in legislation, 170.
- Rights, protection of individual, 41, 128, 141.
- River and harbor improvements, 244-245.
- Roads, overseers of, 4, 5, 8, 10, 93; construction and maintenance of roads, 92-93.
- Rules, of House of Representatives, 165-166, 168-169; of Senate, 168; committee on, 166.
- Salaries. *See* the several offices.
- Samoa, 264, 270.
- Savings banks, postal, 203.
- School district, in Central States, 10-11.
- Schools, public. *See* Education.
- Secession, 273.
- Secretaries, federal. *See* the several federal departments (State, War, Navy, etc.).
- Sections of townships, 6.
- Selectmen, town, 3, 9.
- Senate, State, 49.
- Senate, United States, representation in, 146-147; election of Senators, 148; term, 148; vacancies in, 148; qualifications of Senators, 148-149; rights and privileges of members, 149-150; legislative powers, 150; executive functions, 150-151; senatorial courtesy, 132, 151, 188, *note* 1; judicial powers, 151; presiding officer, 163-164. *See* Congress.
- Separation of powers, 43, 183.
- Sessions, regular and special, of city council, 22; of State legislature, 49-50; of Congress, 161.
- Sewerage systems, 34.
- Sheriff, 4, 5, 11, 12.
- Sherman Anti-Trust Act, 252-253.
- Silver certificates, 233.
- Silver, coinage of, 232-233.
- "Slates," political, 296.
- Slavery, abolition of, 129; slave trade, 122.
- Smithsonian Institution, 207.
- Solicitor, city, 25. *See* Attorney, prosecuting.
- South Carolina, 40, 49, 69, 102, 115, 122, 157, 309, 310.
- South Dakota, 8, 9, 11, 13, 310.
- Speaker of House of Representatives, 133, 164-166.
- Special assessments, 20-21.
- Special legislation for cities, 18.
- Special sessions, of city council, 22; of State legislature, 49-50; of Congress, 161, 193.
- Specie payments, resumption of, 239.
- Spoils system, in city government, 26, 28; in state government, 63-64; in federal government, 189-191.
- Staff, general, 201.
- Standards, bureau of, 206.
- State, secretary of, in commonwealths, 60, 61.
- State, secretary of (federal), 192, 199-200, 258.
- States, constitutions of, 40-46; legislative departments of, 41-42, 48-55; limitations on, under federal



- constitution, 53, 141; executive department, 42, 57-64; judiciary, 42, 66-75; power over crime, 77-82; control of economic interests, 84-95; control of education, 96-106; finance, 107-117; interstate and federal relations, 136-145; sphere of activity, 1, 52-53, 139-140; admission to Union, 44, 271-272; position in the Union, 273; rural local government in, 1-13; city government in, 15-38.
- Streets, city, 33-34.
- Strikes, 87.
- Subpœna, 72.
- Subsidies, ship, 244.
- Succession, presidential, 180-181.
- Suffrage, qualifications for, 49, 287, 309-311.
- Sumter, city-manager plan in, 28.
- Superintendent of schools, in cities, 32, 102; county superintendent, 5, 13, 103; State superintendent or commissioner, 60, 62, 103.
- Supervisor, township, 8, 9, 11; county, *see* Commissioner, county.
- Supreme court, State, 68; judges of, 69; power to adjudge legislative acts unconstitutional, 73-74; judicial control of executive officials, 74.
- Supreme Court, United States, 209, 213-214. *See* Judiciary, federal; also Constitutionality of legislation.
- Surrogate, county, 5.
- Surveyor, county, 13; State, 62.
- Surveys, public land, 6.
- Tariff duties, as a form of tax, 223-224; as commercial regulations, 245-246.
- Tax commissioner, State, 62.
- Taxation. *See* Finance.
- Tennessee, 102, 152, 310.
- Tenure of Office Act, 189.
- Territories, power of Congress concerning, 262; territorial acquisitions, 262-264; territorial legislation, 265-266; government of territories, 266-271; admission of new States, 271-273.
- Texas, 263, 266, 286, 310.
- Textbooks, 104.
- Third term doctrine, 179.
- Thirteenth amendment, 129.
- Tonnage tax, 244.
- Torts, 71.
- Towns, general features of, in New England, 3; government of, in New England, 3-4; town-meeting in New England, 3-4; in the Central States, 8.
- Township, origin of, in the Middle West, 6; officers of, in Central States, 9-10; township board, 9; township-county system, 6-13.
- Trade. *See* Commerce.
- Trade-marks, 95.
- Treason, 77, 290-291.
- Treasurer, county, 5, 12; town, 4; township, 8, 10; city, 25; State, 60, 61.
- Treasury, federal department of, 200.
- Treaties, power over, 150, 192-193, 258.
- Trials, judicial. *See* Procedure, civil and criminal.
- Trustees, township, 8, 9, 11.
- Trusts, State regulation of, 91-92; federal regulation of, 252-254.
- Twelfth amendment, 128.
- Two-thirds rule, 305.
- Unconstitutional legislation. *See* Constitutionality of legislation.
- Undervaluation of property, 111-112.
- Unit rule, 305.
- Universities and colleges, 98-100.
- Unwritten constitution of the United States, 131-134.
- Urban. *See* City.
- Utah, 102, 263, 272, 310.
- Verdict of jury, 73, 80.
- Vermont, 59, 69, 99, 101, 158, 266, 309, 310.
- Veto-power, of mayor, 22-24; of governor, 52, 59; of President, 169, 194; of territorial governor, 267.
- Vice-President, election of, 174-177, 180; salary and functions, 180.
- Virginia, 5, 40, 69, 99, 115, 120, 121, 123, 125, 157, 264, 265, 268, 272, 310.
- Virginia plan, in Constitutional Convention, 120, 123.
- Volunteers, army, 277.

- Voting, methods of, in Congress, 169; qualifications for, 49, 287, 309-311; registration, 311; casting and counting ballots, 314-315.
- War, Department of, 200-201; powers of President and Congress, 131, 184-186, 275-278; declaration of war, 275. *See* Military functions, Militia.
- Warrants, police, 77.
- Washington, D.C., government of, 268-269; street-plan of, 34.
- Washington, George, 119, 124, 125-126.
- Washington (State), 13, 18, 60, 157, 310.
- Wastes, disposal of, 34.
- Water supply, city, 35.
- Waterways, 93-94.
- Ways and Means Committee, in House of Representatives, 221.
- Weather bureau, work of, 205-206.
- Weights and measures, State superintendent of, 62; regulation of, 94, 250, 288-289.
- West Point, 106, 201, 278-279.
- West Virginia, 5, 100, 240, 266, 272.
- White House, the, 179, 180.
- Wills, probate of, 69.
- Wisconsin, 8, 9, 11, 26, 28, 30, 63, 99, 115, 264, 310.
- Woman's suffrage, 310-311.
- Work-houses, 81.
- Working-classes. *See* Labor.
- Wrongs, redress of private, 71-73; redress of public wrongs, 77-80.
- Wyoming, 13, 100, 155, 157, 263, 310.





# TEXTBOOKS IN CITIZENSHIP

## GOVERNMENT AND POLITICS IN THE UNITED STATES. *Problems of American Democracy. A Textbook for Secondary Schools.*

By WILLIAM B. GUITTEAU, Ph.D., formerly Superintendent of Schools, Toledo, Ohio. With Illus. and Diagrams. Crown 8vo.

This book fully covers the requirements of modern high schools in regard to the teaching of Civics. It gives an adequate knowledge of the various forms of government, local, state, and national, emphasizing, however, the practical activities in which students are most interested, and the problems with which as citizens they will be most concerned. Questions at the end of each chapter give local applications of principles discussed in the text.

## PREPARING FOR CITIZENSHIP. *An Elementary Textbook in Civics.*

By WILLIAM BACKUS GUITTEAU, Ph.D.

This is an admirable textbook for the upper grammar grades, and for the first year of the high school. It gives in simple language a very clear explanation of how and why governments are formed, what government does for the citizen, and what the citizen owes to his government. All necessary facts regarding local, state, and national government are given, with the main emphasis upon the practical aspects of government. The book concludes with an inspiring expression of our national ideals of self-reliance, equality of opportunity, education for all, and the promotion of international peace. Each chapter is accompanied by questions and exercises which will stimulate investigation on the part of pupils into the organization and functions of local government.

## AMERICANIZATION AND CITIZENSHIP.

By HANSON HART WEBSTER.

Important and distinctive features of this book are:—  
(1) the catechism upon the United States Constitution;  
(2) the statement of the principles underlying our government; (3) the explanation of the duties and privileges of citizens. It is recommended as a valuable handbook for all Americans, both native and foreign-born.

---

HOUGHTON MIFFLIN COMPANY

1903











LIBRARY OF CONGRESS



0 008 806 645 5